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DOCUMENTS RELATING TO THE SEIGNIORIAL TENURE IN CANADA

TORONTO
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DOCUMENTS RELATING TO THE SEIGNIORIAL TENURE IN CANADA

1598–1854

EDITED, WITH A HISTORICAL INTRODUCTION
AND EXPLANATORY NOTES,

BY

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EDITOR'S PREFACE

IN this volume an endeavour is made to bring together some serviceable selections from the source material available for the study of the Seigniorial Tenure in Canada from its introduction by the French government to its abolition in 1854. The amount of documentary matter which relates directly or indirectly to this phase of French colonisation in the New World is so extensive, and its nature is so varied, that the task of determining what ought to be included and what ought to be set aside has proved by no means easy. In general, however, it has seemed advisable that the most important documents, even those of somewhat forbidding length, should be printed substantially in full. Such, for example, are the despatches of the intendant Raudot, the elaborate report of the engineer Catalogne, the instructions issued by the British authorities with reference to the colonial land policy during the decade following the conquest, and the comprehensive reports on the workings of the seigniorial system presented to the Canadian legislative authorities in 1790 and in 1843. Such documents, on the other hand, as have seemed to be of distinctly less importance,

especially those which deal but incidentally with matters relating to seigniorialism and primarily with other aspects of colonial administration, have in some cases been printed in abbreviated form, the omissions being duly indicated.

So far as practicable, documents have been selected which illustrate the various chronological stages in the evolution of Canadian seigniorialism,—its rise, its paramountcy, and its decline; but, as the data for some periods are abundant and for others very meagre, this policy has of course encountered limitations. It is hoped, however, that the student of the institutional history of Canada will find in the volume fair types of all the more important sources which shed light upon the subject, including despatches, memoirs, reports, royal edicts, colonial ordinances, title-deeds, patents of nobility, judicial decisions, opinions of jurists, statutes, and the unofficial chronicles of contemporary observers. Each document has been given its place not merely because it illustrates some special phase of the seigniorial system, but because it is typical of much more material of its kind.

The documents relating to the development of the seigniorial tenure prior to 1760 are printed in French because that is the language of the originals; those which bear dates subsequent to the conquest are for a like reason given in English. It has not been thought advisable to attempt translations from one language into the other; for, since much of the

material is of a technical nature, the task of effecting a perfect translation would tax the knowledge of a trained jurist as well as the literary skill of a historical scholar.

At the head of each document is indicated a place where a trustworthy unabbreviated copy may be found; for it is believed that, in most cases, such references are likely to be of greater direct service to Canadian students than would references to the originals, most of which are stowed away in European archives. Readers are referred, for instance, to the archives at Ottawa rather than to those of the Ministry of Colonies at Paris or of the Public Record Office at London, although the records at Ottawa are, for the most part, only transcripts of the original documents now preserved in the home countries. In short, when a reliable copy seems to be more readily accessible than an original, the location of the copy has been designated. At the same time, it is only fair to say that the documents printed in this volume have been carefully collated with the originals, and that, where these differ from the transcripts, the wording of the originals has been faithfully followed. In this process of collating copies with originals many discrepancies have come to notice, but they have on the whole been of singularly slight importance; in no case has the variation sufficed to alter in the slightest degree the sense of a single paragraph. For all practical purposes, therefore, the copies indicated

may be fully trusted. When, as in a few cases, there are no unabbreviated copies in Canada, direct reference to the originals has been made.

Some of the documents here published have, it is true, already appeared in print; but they are, for the most part, to be found only in government publications issued a half-century or more ago and now somewhat difficult to obtain. A few of these have been republished by the Canadian Archives Branch since this volume was planned. But much is here printed for the first time.

Throughout the volume all omissions and insertions have been indicated in the usual manner. In some of the documents, especially in the French portion of the volume, obvious errors of spelling and punctuation have been corrected whenever the interests of clearness have seemed to demand such changes, and in the English documents the capitalisation has been modernised. Otherwise no unindicated alterations have been made intentionally.

The somewhat lengthy Historical Introduction is designed to afford a general survey of Canadian feudalism, to assist the reader in obtaining a proper idea of the relative importance of each document, and to facilitate the consideration of each in its proper perspective. Occasionally the footnotes aim to explain technical words or phrases in the text; but more often they seek to afford additional information or to indicate sources from which corroborative or other

data may be drawn—a plan which, it is hoped, renders pardonable the omission of a separate bibliography.

In preparing the volume for the press I have received kind assistance from many quarters. My special acknowledgments are due to Dr. A. G. Doughty, C.M.G., Dominion archivist, for indispensable aid at many points, as well as to Mr. H. P. Biggar of London, M. Théodore Beauchesne of Paris, and Miss Magdalene Casey of the Dominion Archives Branch for their expert assistance in collating the proof-sheets of the volume with the original documents. To my valued friend Mr. Benjamin Sulte of Ottawa I am deeply grateful for cheerful interest and aid at every stage of the work; for from the fulness of his rare knowledge concerning the social and economic history of the French-Canadian people I have been at all times generously privileged to draw. To Professor G. M. Wrong of Toronto I am indebted for sage and kindly counsel on many matters; and from Byron E. Walker, Esq., president of the Champlain Society, I have received many suggestions of interest and value.

WILLIAM BENNETT MUNRO.

CAMBRIDGE, MASS.,
April 1908.

HISTORICAL INTRODUCTION

OF all the social and political institutions in human history, none, perhaps, has received more meagre justice than the great mediæval institution of feudalism. Despite the efforts of historians to make clear the fact that the feudal system, when viewed in its proper perspective, had its distinct merits as well as its faults, the institution of feudalism continues to associate itself in the popular mind with various ill-defined impressions concerning the arrogance of the strong and the oppression of the weak in the Dark Ages of Western Europe. In contemporary Canada, indeed, there are those who persist in thinking of their French-Canadian compatriots as the descendants of erst-while serfs, who for generations confessed servility by bowing the knee to a lord, and who for their elevation to the status of free men have only to thank the generosity and might of England. To such the century and a half during which France entrenched herself in the valley of the St. Lawrence affords, in the annals of the New World, an example of the methods by which a misguided monarchy unsuccessfully sought to superimpose upon a luckless colony that senile and decadent seigniorialism which characterised the social organisation of the motherland in the two centuries preceding the Revolution. Absolutism, ecclesiasticism, feudalism, these are the terms with which it is the fashion to dismiss the institutional history of the old régime in French Canada,—an ill-starred triumvirate linked by a common interest in crushing out of the colony every vestige of initiative and independence.

The observant Tocqueville has somewhere remarked that

in the days of the old dominion the administration essayed to assume the functions of Providence. It is indeed beyond question that, in New France as well as in Old, the government did seek to warp political, social, and economic progress into the few narrow grooves along which paternal wisdom dictated that they should proceed, and that in pursuance of this policy it circumscribed the daily walk and conversation of the masses with no end of legal barriers. Not even the most superficial student of the history of the old dominion can fail to be impressed with the prodigious administrative activity of the period, or with the ruthless fashion in which the hand of the State was thrust forth into every sphere of private enterprise. It is not, therefore, a matter for surprise that the seigniorial system, as one of the most important agencies in the maintenance of a rigorous paternalism, should have received its share of superficial condemnation; for it was this institution that gave to the monarchy a most effective means of ensuring the docility of its colonial population, and of buttressing its own paternal power.

To all this there is, however, quite another side. The French-Canadian of to-day, who yields place to none in pride of his lineage and in respect for his ancient institutions, very properly resents the imputation that he owes deliverance from thraldom to his Saxon suzerains, or that the social status of his forbears was other than that of free men. While his leaders are ready to grant that the feudal system in Canada had, by the middle of the nineteenth century, become ill-adapted to the new economic environment, and that its abolition was the part of wisdom, they show no disposition to concur in the opinion that the introduction of seigniorialism to the colony was an obvious error, or that the seigniorial system was, in its pristine days, an obstacle to the progress of the race or a weapon of popular oppression. On the contrary, there are those, like Mr. Benjamin Sulte, who urge that the institution proved, in its time, a very effective agent

in the colonisation of New France, and that it served, as no other social organisation could have served, to give the colony a defensive strength against her encircling enemies.

From beginning to end of the great duel for supremacy in North America, France never had any reasonable hope of ultimate success; at every stage of the conflict the odds were overwhelmingly against her. In the first decade of the eighteenth century, when the combat began to thicken, the English colonies in North America outnumbered New France in point of population at least ten to one; and in the matter of economic resources the disparity was, if anything, even more pronounced. New France had at this time somewhat more than fifteen thousand people, of whom perhaps four thousand at the most were capable of bearing arms; whereas Massachusetts alone had more than eighty thousand, and the total population of the English colonies had passed the quarter-million mark. In a word, the relative numerical strength of New France to that of the English colonies was, at the threshold of the eighteenth century, just about that which Canada bears to the United States in the opening years of the twentieth. This enormous numerical handicap was augmented by the fact that at most critical moments the French colony was not able to draw effectually upon the military strength of the motherland; for the English command of the seas rendered communication between France and Quebec always dangerous and sometimes impossible. For considerable periods, therefore, New France was likely to be thrown wholly upon her own resources alike for her subsistence and for her defence. This being the case, why did New France not go the way of the New Netherland? Why was the French colony, throughout a period extending over almost a full century, able to display a defensive strength so vastly out of proportion to her numbers and to her economic capabilities? Much has been written in elucidation of the fundamental weaknesses which caused New France ultimately

to succumb; but historians have not examined with equal care those elements of strength which enabled French dominion in the New World to endure so long.

The remarkable defensive vigour of New France was the outcome of a number of important features in French colonial policy. The early seizure of strategic points, the possession of considerable numbers of Indian auxiliaries, the superior skill with which the Frenchman mastered the rudiments of forest warfare, all helped in some measure to offset the numerical inferiority of the French. Most of all, however, New France derived advantage from the homogeneity of her population, her unity of interest and purpose, and her policy of diverting all political, social, and economic development into those channels which were considered to be most conducive to military efficiency. It is true, one may hasten to add, that in pursuing this policy of turning the colony into a huge armed camp the French authorities acquired for the country a defensive strength which was at best but transitory in its nature; for in the long run military prowess must rest with that race which most intelligently and most industriously cultivates the arts of peace. With states, however, as with men, self-preservation is the first law of nature; and it was the misfortune of New France to have enjoyed but few years in which her very existence was not seriously threatened. All means of augmenting the colony's military efficiency, therefore, even though avowedly of only temporary service, were eagerly sought and applied.

Among the various institutions by which men have from time to time endeavoured to increase the military strength of a weaker community, feudalism ranks as one of the most effective. The logical product of an age in which, owing to the weakness of the central power, every man's hand was at his neighbour's throat, the feudal system afforded a method of social organisation which welded contiguous groups of population into efficient military units

capable of defending themselves against enemies perhaps more numerous but less compactly joined. Now, when one comes to analyse conditions in New France in the seventeenth and eighteenth centuries, one finds that they were not very unlike those existent in Western Europe during the ninth and tenth. A comparatively small body of French colonists, surrounded on all sides by active enemies both white and red, unable at any time to rely upon aid from without, and dependent for their very existence upon their own military efficiency, might well have found in a system of feudal organisation an institution well adapted to colonial conditions.

"It was Richelieu," says Parkman, "who first planted feudalism in New France;" and writers since Parkman's day have been disposed to take it for granted that the introduction of the seigniorial system into Canada was part of the cardinal-minister's scheme for settling the colony with the landless aristocracy of France. As a matter of fact, however, the charter issued to the Marquis de la Roche, more than a quarter-century before Richelieu became minister of state, gave specific authority not alone for the granting of seigniories in the New World but for the establishment of the obligation of military service as an incident of land tenure. Indeed, several seigniorial grants were made prior to the establishment of Richelieu's great colonising company in 1627; and the charter of this organisation, in giving the directors power to make feudal grants, merely followed what was an established practice. Seigniorialism was transplanted to Canada simply because it existed almost everywhere at home. It was as logical for Frenchmen to bring this institution to the valley of the St. Lawrence as it was for Englishmen to bring to Virginia a system of tenure in free and common socage. The institution was not, like the encomienda system of New Spain, or the patroonship system of the New Netherland, a special method of landholding

devised to meet the peculiar environment of a colony. It was one with which the French people had been familiar for many centuries, and was adaptable to colonial conditions without numerous modifications, which were made only as necessity arose.

Students of institutional history are accustomed to speak of French seigniorialism in the seventeenth century as effete and cumbrous, and to comment upon the misguidedness of the French authorities in transplanting to the colonies an institution so far advanced in decay. To the members of the official class in France, however, the weakness of the system could scarcely have been apparent; for those who viewed seigniorialism only from the higher ranks of the seigniorial hierarchy were not in any position to note its waning vitality. In the age of Louis XIII. and Louis XIV., France ranked as the first military power of Europe; and her successes in the field naturally served to engender, in the circles of authority, an optimism which closed their eyes to the growing spirit of unrest among the masses of the people. It was quite true, however, even if the fact was not adequately appreciated by those who surrounded the throne, that the seigniorial system was steadily losing its vigour. The old personal nexus which bound the vassal to his lord had become completely severed; the lord no longer protected his dependant or looked upon him as a special ward, but had come to be merely a rigorous exactor of dues and services. By the beginning of the seventeenth century it had even become the practice of large numbers of French seigniors to leave their manors in the hands of trusted bailiffs and betake themselves to Paris, whence they returned to visit their estates only at rare intervals. These bailiffs, given a free hand and constantly urged to augment the revenue-producing power of the seigniories, soon stretched the seigniorial prerogatives to the farthest point, wringing from the hapless peasants every possible exaction, even to the last sou. It was thus that the

seigniorial system, during the two centuries preceding the French Revolution, developed its host of intolerable abuses, its multitude of oppressive *banalités*, its unreasonable exactions of corvée labour, and the score or more of minor incidents by means of which the censitaires were not only impoverished but subjected to personal degradation. Those who are familiar with the writings of Arthur Young, Taine, Tocqueville, and others need not be reminded of the leading rôle that seigniorial oppression played in bringing about that terrible retribution which the masses of the French people exacted from the governing classes in the outgoing years of the eighteenth century.

In New France, however, the seigniorial system went back to the plane which it had occupied in the earlier centuries before the curse of absenteeism had sapped its vigour, and before its simple annual dues and its vague services of an honorary nature had been turned into agencies of extortion and oppression. In Canada we see, as it were, a return to primitive feudalism. The seignior is again dwelling upon his domain, among his own people, taking place as their leader in war and their patron in peace. The ancient personal bond between lord and liegeman is revived in all its earlier fulness and strength. The military aspect of feudalism, which in the heyday of the system was its most dominating feature, but which by altered conditions of warfare had in France long since been forced into the background, receives in Canada a renewed prominence. These features, together with the paucity and simplicity of the various incidents of the system, serve to give to Canadian seigniorialism a form and spirit very much like that of pristine feudalism shorn of the excrescences which in France barnacled its later days. In a word, the Canadian system has all the merits of the parent stem from which it originated, but from the blemishes of its progenitor it is almost entirely free. For more than a century after its introduction into New France it was not unadapted

to its surroundings, and it made substantial headway, its decline and fall coming only when, under British administration, its environment underwent a radical change. Having thus a growth, a paramountcy, and a dissolution entirely its own, wholly unconnected with the vicissitudes of the system in France, which it outlasted more than a full half-century, Canadian feudalism affords in its evolution an independent field of study.

To a Breton nobleman, the Sieur de la Roche, was given the task of first crystalising into action the designs of the French authorities for the establishment of a Bourbon empire in the New World. The commission of La Roche, given in 1598, conferred upon him the title of lieutenant-general of all the territories claimed by France in North America, and endowed him with a formidable array of semi-sovereign powers. In one of the paragraphs of this commission may be found the first direct evidence that it was the intention of the French government to establish in the new domains a feudal system of land tenure and a seigniorial hierarchy of landholders.[1] "In order," recites the commission, "to increase and extend the good-will, courage, and affection of those who are about to embark in the said undertaking, and even of those persons who shall settle in the said territories, we have given him authority, as respects the said lands so to be acquired for us in the course of the said voyage, to grant the same in full property to all those to whom he may concede them; that is to say, to gentlemen and to those whom he may consider persons of merit, in the form of fiefs, seigniories, châtellenies, earldoms, viscounties, baronies, and other dignities, to be holden of us in such manner as he shall consider due to the services performed by the respective parties, on the condition that they shall aid in the support and defence of the territories; and to other persons of inferior

[1] Extracts from the Commission of the Sieur de la Roche, January 12, 1598, *printed below*, pp. 1–3.

rank, on such dues and annual rentals as he may deem just, of which we agree that they shall remain quit and discharged for the first six years, or such other period as our said lieutenant shall believe to be right and necessary, excepting always duty and service in the event of war." The commission further authorised La Roche to transport from France such persons as he could induce to take a share in the planting of a new nation in the western world.

Although the terms of La Roche's charter afford satisfactory evidence that, even at this early date, the French authorities intended to organise all new colonies upon a feudal basis by imposing upon every landholder the obligation of military service, it was not the fortune of the Breton adventurer to make any substantial progress in the consummation of this plan. Failing to obtain voluntary colonists, La Roche set forth with a band of convicts taken from the Norman jails, but through an unfortunate combination of unfavourable circumstances was compelled to abandon them on Sable Island, off the Acadian coasts. The project was not given up, however; for within a decade from the date of La Roche's ill-starred expedition the Brouage voyageur, Samuel de Champlain, had founded his settlement at Quebec and laid the basis of a French dominion beyond the seas. For twenty years Champlain strove earnestly to further the interests of his infant colony, but with somewhat disappointing results; for not only was the support which he received from France spasmodic and scant, but the small population of the settlement devoted its energies to the exploitation of the fur trade, and could be induced to give but little attention to the less lucrative task of cultivating the soil. Although the authorities stood ready to grant lands upon favourable terms, only three seigniories were allotted during these two decades, all of them in the immediate vicinity of Quebec. Two of these were granted to colonial laymen; the third went to the Reverend Fathers of the Society of Jesus, more commonly

known as the Jesuit order. This militant organisation had just begun its work of religious propaganda in the colony; and its new seigniory of Notre Dame des Anges, obtained in 1626, formed the nucleus of the enormous landed interests which came to be known in the later political annals of Canada as the Jesuits' Estates. The fact that only three grants were made in a score of years shows that the seigniorial system was making but modest progress.

The chartering of the Company of New France (better known as the Company of One Hundred Associates) in 1627 marked a new epoch in the history of French colonisation in the new hemisphere. This commercial organisation was the protégé of Cardinal Richelieu, now chief minister of Louis XIII., and its establishment was part of the minister's plan for the creation in America of a powerful military colony which might serve to offset and rival the successful operations then being conducted by Englishmen in the regions to the south. To the new company were handed over all the territories claimed by France in the western world, "from the coasts of Florida to the Arctic circle, and from Newfoundland westward to the great lake commonly called the fresh sea," to be held by the Company for ever as one immense fief or seigniory subject to a merely nominal payment. The Company, on its part, was put under obligation "to carry over to New France aforesaid, in the course of the ensuing year 1628, two to three hundred men of all trades, and during the next fifteen years to increase this number to four thousand." It was further required "to provide subsistence, shelter, and all things generally which may be necessary to life, during three years only"; but after this period it might be freed from such obligation, if it so desired, by giving to the colonists "a sufficient quantity of cleared land to enable them to support themselves, with the necessary wheat to sow it for the first time," or by making some other provision whereby the settlers might, by their own

labour and industry, subsist in the colony and support themselves.[1]

In the matter of granting lands the widest powers were given to the Company of One Hundred Associates. "It shall be lawful for the said associates," declares the charter, "to improve and render more valuable the said lands as they may deem it necessary, and to distribute the same to those who will inhabit the said country and to others, in such quantities and in such matter as they shall think proper; to give and grant them such titles and honours, rights and powers as they may deem proper, essential, and necessary according to the quality, condition, and merits of the individuals, and generally upon such charges, reservations, and conditions as they may think proper. And nevertheless, in case of the erection of any duchy, marquisate, countship, or barony, His Majesty's letters of confirmation shall be obtained upon the application of His Eminence the grand-master, chief, and general superintendent of the trade and navigation of France." By the terms of the charter all grants of land already made in New France were summarily revoked; but this provision was not enforced in the case of the seigniory which had been given to the Jesuits.

The Company of One Hundred Associates proceeded at once with arrangements for the assumption of its new responsibilities by drawing up some by-laws or regulations making detailed provision as to the manner in which the lands of New France should be granted to settlers.[2] By these regulations the directors of the Company were empowered "to grant the lands of the said New France subject to such terms and conditions as may seem to them most advantageous for the Company; . . . likewise to appoint, at the different places, such agents as they may deem advisable, for the

[1] Extract from the Charter of the Company of One Hundred Associates, April 29, 1627, *printed below*, pp. 3–4.

[2] Extract from the By-laws and Regulations adopted by the Company of One Hundred Associates, May 7, 1627, *printed below*, pp. 5–6.

distribution of the said lands, and the regulation of the tenure of the same." Concessions of land amounting to less than two hundred arpents might be granted by the directors without any restriction; but when the directors desired to give areas of greater extent they were to call together "as large a number of the associates as possible," and no such larger grant was to be deemed valid unless it should have been attested by the signatures of at least twenty of the associates, or shareholders, of the Company.

"Thy way is in the sea," ran the motto of the Company graven upon its official seal; and in the spring of 1628 an imposing fleet of vessels, heavily laden with settlers and supplies, set forth for the St. Lawrence under the Company's auspices. Unhappily the squadron was captured by the English before reaching its destination, a misfortune which was but a preliminary to the English seizure of Quebec in the following year. The colony was handed back to France, however, when the war came to an end a few years later; and in 1632 the Company was able to commence actively its work of colonisation. Champlain resumed his post as governor on behalf of the new suzerains, a considerable number of settlers were gathered in France and sent to the colony, and grants of seigniories soon began to be made liberally.

The first seigniorial grant made under the authority of the Company of One Hundred Associates was that of Beauport, given to Robert Giffard in the early days of 1634. By the terms of the title-deed it comprised "one league of land to be taken along the shore of the river St. Lawrence, by one league and a half inland, at the place where the river called Notre Dame de Beauport discharges itself into the said river St. Lawrence." This tract of land was granted to Giffard "in full jurisdiction, property, and seigniory," subject to the condition "of fealty and homage," which, recites the deed, "the said Sieur Giffard, his successors and assigns shall be bound to render at the Fort St. Louis in Quebec, or at

any other place which shall be appointed by the said Company, by one full homage at each mutation of possession of the said lands, with a piece of gold weighing one ounce, and one year's revenue of what the said Sieur Giffard shall have reserved to himself after he shall have granted in fief or subject to *cens et rentes* the whole or part of the said lands." Giffard was authorised to establish courts of justice within his domain, with the proviso, however, that appeals might be carried from such courts to the higher authorities of the colony.[1]

The grant of the seigniory of Beauport to Giffard was soon followed by similar grants to other persons, the allotted tracts being situated in different parts of the colony, but for the most part not very far away from the settlement at Quebec. During the next decade, however, settlers pushed along the north shore of the St. Lawrence beyond Three Rivers; and after the founding of Montreal in 1642 some seigniorial concessions were made in the district surrounding the confluence of the St. Lawrence with the Ottawa. Some of the grants were made to ambitious men who had come out from France to try their fortunes in the new land; but a larger number went to directors and associates of the Company who never came to the colony at all,—most of whom, in fact, never gave any attention to their fiefs. The terms upon which these grants were made conformed in general to those inserted in Giffard's deed, but some minor variations may be noticed here and there. Some of them appear to have been given on the recommendation of those who represented the interests of the Company in Canada; others were no doubt secured through arrangements made wholly in Paris.

The Company of One Hundred Associates accomplished very little for the development of the seigniorial system

[1] Title-deed of the Seigniory of Beauport, granted to Robert Giffard, January 15, 1634, *printed below*, pp. 7–9.

during the thirty years or more throughout which it administered the affairs of the colony. It is true that between 1632 and 1663 no less than sixty seigniorial grants were made under its authority; but its representatives made no effort to force or even to encourage the clearing and cultivation of the granted lands. Although it had been put under obligation to send out to the colony more than four thousand settlers within the first fifteen years of its operations, the total population at the close of thirty years was less than three thousand. Throughout the whole period the exploitation of the fur trade had engrossed the entire attention of the associates, and the interests of permanent colonial development had been wholly disregarded. Small areas of land in the vicinity of Quebec, Three Rivers, and Montreal had been cleared; but the intervening territory remained a howling wilderness, and along the whole south shore of the river there was scarcely a single farm. In the half-century that had passed since Champlain gave France a foothold on the St. Lawrence, agriculture had made no progress worthy of the name; it was only with difficulty, indeed, that foodstuffs sufficient for the subsistence of the colony could be secured year by year.

Although the officials of the Company endeavoured in various ways to keep the true state of affairs from the ears of the royal authorities, complaints from the colonists themselves eventually reached the attention of Louis XIV., who was at this time assuming personal charge of French administrative affairs. The king's new minister, Colbert, was also quick to see how audaciously the Company had long been neglecting its responsibility. A radical change in policy was accordingly decided upon; and the Company was persuaded, under some pressure, to surrender the rights which it had obtained by the charter of 1627. In accepting the surrender, His Majesty took occasion to place frankly on record his disappointment with the results of the Company's operations

in New France. "Instead of finding," he declared, "that this country is settled as it ought to be, after so long an occupation thereof by our subjects, we have learned with regret that not only is the number of its inhabitants very limited, but that even these are every day exposed to the danger of expulsion by the Iroquois." Provision was therefore made that "all the rights of property, justice, and seigniory, right to appoint to offices of government, to appoint lieutenants-general in the said country, to name officers to administer sovereign justice, and all and every other right" which the Company had possessed, should revert to the crown, to be thereafter exercised directly by officers whom His Majesty should appoint.[1]

Among the operations of the Company, one which seemed to deserve special criticism was its practice of giving generous tracts of land to men who were not settlers in the colony. Another unwise policy was its habit of granting to actual settlers more land than they could properly handle—a point on which the royal views were very clearly set forth in an edict issued shortly after the revocation of the Company's privileges. "It has been represented to His Majesty," runs this decree, "that one of the principal reasons why the said country has not increased in population as has been desirable, and even why many dwellings have been destroyed by the Iroquois, is to be found in the practice of conceding great areas of land to all the individual settlers of the country who never have been and are not now able to clear the same, and who have established their dwellings in the middle of their grants." Being thus widely separated from one another, they could not, as the edict goes on to state, be of mutual assistance in the event of Indian attack, nor could they be conveniently succoured by the troops stationed in the country. Accordingly, provision was made that, after an interval of

[1] Royal Decree accepting the Surrender of all Rights held by the Company of One Hundred Associates, March, 1663, *printed below*, pp. 10–12.

six months, all uncleared seigniorial lands should revert to the crown, to be re-allotted by the royal authorities as they should deem desirable.[1] This decree of 1663 is the first of a succession of "edicts of retrenchment" by means of which the French government endeavoured, but not with entire success, to curb the persistent disposition of seigniors to obtain tracts of land too extensive to be properly cared for and developed.[2]

The withdrawal of the colony from the control of the Company made it necessary to establish some new administrative authority; and this a royal edict, issued in April 1663, undertook to provide. By the terms of this arrêt New France was provided with a framework of administration similar in general outline to that employed in the provinces at home,—that is, with a board consisting of councillors, a governor, a bishop, and, a little later, an official called the intendant.[3] Subject to the general direction of the king and his minister, these authorities were thenceforth to control the political destinies of the colony. But besides sending out to Canada officers to fill these newly-created posts, His Majesty thought it desirable to commission a trusty agent, the Sieur Gaudais, to proceed to the colony in quest of comprehensive and reliable information concerning the conditions and needs of New France. In his letter of instruction to Gaudais the king particularly directed him to see that the royal decree providing for the revocation of uncleared land grants was faithfully carried into effect, and that all possible pains were taken to encourage the remaining landholders to make progress in the arts of yeomanry. He also requested his commissioner to compile data concerning the population, the products, and the general resources of the colony.[4]

[1] Royal Arrêt providing for the Revocation of all Grants of Land remaining Uncleared, March 21, 1663, *printed below*, pp. 12–14.

[2] See also below, pp. lv–lvi.

[3] *Édits et Ordonnances*, I. 37–39.

[4] Royal Instructions given to the Sieur Gaudais, Special Commissioner to Investigate Conditions in New France, May 7, 1663, *printed below*, pp. 14–17.

The ways of the royal authorities during the old régime were often inscrutable,—a definite line of policy, adopted after mature consideration, being not infrequently abandoned hastily and without explanation. From the general tenor of the royal statements in connection with the demise of the Company of One Hundred Associates, for instance, it might well have been assumed that, for the time being at any rate, His Majesty was through with the method of colonisation by chartered companies. Nevertheless, the new royal administration had been installed in New France less than a single year when Louis XIV., under the inspiration of Colbert, gave his patronage to a new corporate organisation, the Company of the West Indies, and entrusted to it, among other important powers, the right to make seigniorial land grants in the colony. Indeed, the charter of this corporation, granted in 1664, gave powers and privileges fully as extensive as those committed to the Company of One Hundred Associates some thirty-seven years before.[1] "The said Company as seigniors of the said lands and islands," runs one of the sections of this charter, "shall enjoy the seigniorial rights which are at present established therein upon the inhabitants of the same, as such rights are now levied by the seigniors in possession, unless the said Company shall deem it proper to commute such rights for the relief of the said inhabitants." Furthermore, the Company was empowered "to sell or subinfeudate the said lands by way of enfeoffment . . . upon payment of and for such *cens et rentes* or other seigniorial rights as may be deemed proper, and to such persons as the Company may deem fit." A new epoch in the history of laws relating to land tenure was inaugurated by the terms of this charter, for one of its sections made provision that thenceforth all contracts should be made and construed in accordance with the rules laid down in the Custom of Paris.[2] Not only was

[1] Extracts from the Charter of the Company of the West Indies, May, 1664, *printed below*, pp. 17–19.

[2] Section xxxiii.

this code of laws designated for general use in the colony, but the colonial authorities were forbidden to have resort to any other custom ; for it was evidently the design of the royal government that the colony should be spared the legal disorganisation which, owing to the multitude of local customs, characterised France at this time.

During the period prior to the enactment of this regulation in 1664, contracts relating to land had in the main followed the terms of the custom of the French Vexin (*Vexin le Français*), a code of legal canons not forming part of the Custom of Paris but in a sense supplementary to it. Thenceforward, however, the Custom of Paris became what one might reasonably call the " common law " of New France. This code, embodying, as it did in the main, long-standing customs which had developed within the limits of the Prévôté and Vicomté of Paris (the district immediately including the French metropolis), was obviously better suited to the needs of a well-developed urban community than to the problems of a struggling agricultural colony. Since the population of New France was largely of Norman extraction, the Custom of Normandy might, as the present writer has elsewhere suggested,[1] more fittingly have been designated as the basis of the colonial law system ; but this code the royal authorities could scarcely have been expected to recommend. At any rate, by the middle of the seventeenth century the Custom of Paris had acquired a very well-defined primacy over the other customs of France, and was rapidly securing recognition as the type to which the rules of law in other local jurisdictions ought to conform. As the great mass of the colonial population was wholly unfamiliar with the rules of the Custom, the authorities naturally found difficulty in securing strict adherence to them ; and the intendant made frequent complaint that the general ignorance concerning them was the

[1] W. B. Munro, *The Seigniorial System in Canada* (New York : Longmans, Green & Co., 1907), 9–10.

direct cause of much needless litigation. On the whole, however, the introduction of the Custom of Paris was, in the long run, an act as salutary as it was logical.

The Company of the West Indies proceeded forthwith to assume its land-granting powers in Canada by sending out to New France in 1665, as its general agent, M. Le Barroys, who was instructed to make such seigniorial concessions as he might think advisable, and to see that the Company was promptly paid its dues by the seigniorial concessionnaires. Le Barroys, however, soon became so much engrossed in the trading operations of the Company that he seems promptly to have concluded that the duty of deciding upon applications for seigniorial grants might more properly be laid upon the royal intendant of the colony, who should, however, make the grants in the Company's name. About a year after his arrival at Quebec, therefore, he presented to the chief royal officials in the colony a memorial in which he proposed that the Company should be relieved of its responsibilities in regard to the concession of seigniories, and that thenceforth all such grants should be made by the intendant, who should also determine the extent and conditions of such allotments.[1] This proposal was favourably considered, and during the next decade most of the seigniorial grants were made by the intendant alone. In a few cases, however, the Company interposed to make concessions upon its own responsibility.

The office of intendant in New France was in 1666 held by Jean Talon, who, as his despatches show, had very ambitious plans for developing the agricultural resources of the colony. Among other comprehensive schemes, he conceived the idea of settling the more vulnerable parts of the colony with a military yeomanry, a plan suggested by the fact

[1] Extract from the Memorial of M. Le Barroys to Messieurs de Tracy, de Courcelle, and Talon concerning the Procedure to be followed in making Grants of Seigniories in New France, August 18, 1666, *printed below*, pp. 20–21.

that the king had in 1665 sent out to New France the Carignan-Salières regiment, a detachment comprising more than a thousand rank and file. These troops were effectively used for two years in impressing the Mohawks with the punitive power of the French, and when their task was completed would, in the ordinary course of affairs, have been ordered home to France. In fact, a few companies had already left the colony when Talon came forward with a proposal that the rest of them should be disbanded in Canada, and that both officers and men should be persuaded to become permanent settlers in the New World. The enterprising intendant suggested that the officers of the regiment should be allotted generous tracts of land to be held as seigniories, and that each officer should subgrant farms within his seigniory to such non-commissioned officers and men as might be induced to remain in Canada. With considerable pertinence Talon drew attention to the old Roman practice of mustering out legions upon the lands of the border provinces, the *prædia militaria*, and suggested that "the practice of this politic and warlike people might be judiciously followed in a land separated a thousand leagues from its monarch," and likely to be forced to depend very frequently upon its own military resources for defence against its numerous enemies. The plan, Talon proceeded to suggest, would make no permanent demands upon the royal treasury; for, after the initial expense of placing the officers and soldiers upon the land had been provided for, the whole body might be looked upon as self-supporting. The colony would thus receive a welcome addition to its defensive strength, and the cost would, in the long run, be very much less than that which would be incurred by maintaining permanently a force of regular troops in the colony. The military settlers would, the intendant hoped, prove in all respects as serviceable as regular troops, and even more so; for they might be counted upon to show a rare zeal in the defence of what they would come to regard as their

own special heritage. Talon's plan, furthermore, contemplated that in future the titles of all lands granted in Canada, whether to soldiers or to civilians, should expressly state the military nature of the tenure under which they were to be held, and that the recipients of grants should, in return for exemption from the regular seigniorial dues, pledge themselves to send their eldest sons, when these should reach the age of sixteen years, to receive training in arms at one of the colonial garrison-posts, this service to be given without compensation.[1]

The suggestions of the intendant were endorsed by Tracy and Courcelle, his colleagues in office at Quebec, and were then submitted to the king, who promptly gave his approval and sent to Canada the funds needed to carry out the project. It was arranged that generous sums should be distributed among the officers to assist them in making a favourable start as seigniorial lords in New France, and that each non-commissioned officer and soldier should be assured of a year's rations and the equivalent of a year's regular pay. These terms proved acceptable on the whole, about twenty-five officers, mainly captains and lieutenants, signifying their willingness to remain in the colony. Concerning the non-commissioned officers and men who agreed to make Canada their home it is not easy to give definite figures, but the number probably lay between four and five hundred. The addition to the colonial population was, therefore, substantial and acceptable.

It was the design of the authorities so to locate this new body of settlers that it might be of high service in conducing to the defensive strength of the country. New France was vulnerable to her English rivals at only two important points: she could be attacked easily by way of the Lower St. Lawrence

[1] Extract from the Draft of Regulations relating to the Administration of Justice and the Distribution of Lands in Canada, submitted by M. Talon to Messieurs de Tracy and de Courcelle, January 24, 1667, *printed below*, pp. 22–26.

or by way of Lake Champlain and Richelieu River. For defence against attacks directed by way of the former route, the authorities had to trust, in the main, to the fortifications of Quebec, which, though rude enough at this time, proved sufficiently effective in 1690 against a strong English expedition. The Richelieu country was, therefore, the colony's most vulnerable point; for it was the portal through which its enemies naturally entered the land from the south. The Mohawks had used it with results frequently disastrous to the French; and there seemed to be no reason why the militiamen of New England would not use it in a similar manner. That Talon displayed strategic sense and foresight in recognising the military importance of the Richelieu region is proved by the extensive use made of the Lake Champlain route during the Anglo-French wars of the eighteenth century, as well as during the Revolution and the war of 1812. To strengthen the colony at its weakest point, therefore, the Quebec authorities determined that many of the Carignan settlers should be located along the Richelieu River and along the St. Lawrence within easy distance of the confluence of the two streams. Generous tracts of land on both rivers were distributed as seigniories among the officers, the rank and file proceeded to choose their farms within these limits, and soon the region took on the appearance of a permanent military cantonment.

When the officers had selected their lands and, with the funds provided by the king, had begun to make progress in the development of their seigniories, title-deeds were issued to them in due form by the intendant, each bearing date either October 29 or November 3, 1672, though actual possession of the land had in some cases been given three or four years previously. From the deed of the seigniory of Saurel (Sorel), granted to Captain Pierre de Saurel, one may obtain a general idea of the purposes which the home authorities had in mind, as well as of the powers and responsibilities assumed by the

military seigniors.[1] "His Majesty," runs the patent, "having at all times sought with care and the zeal suitable to his just title of eldest son of the Church the means of extending in the most distant countries, by the propagation of the Faith and the diffusion of the Gospel, the glory of God and the Christian name, first and principal object of the establishment of the French colony in Canada, and, accessorily, of making known unto the bounds of the earth most remote from the intercourse of civilised men the greatness of his name and the power of his arms, and having judged that there were no surer means to this end than to compose this colony of people qualified by their personal character properly to fill it up, to extend it by their labour and application to agriculture, and to maintain it by a vigorous defence against the insults and attacks to which it might hereafter be exposed, has sent to this country a number of his faithful subjects, officers of his troops in the Régiment de Carignan and others, most of whom, conforming to the great and pious designs of His Majesty, are willing to connect themselves with the country, by forming therein settlements and seigniories of an extent proportionate to their means; and whereas the Sieur de Saurel, captain in the Carignan regiment, has petitioned us to grant him a portion thereof," the deed proceeds to convey to him the tract of land at the confluence of the St. Lawrence and the Richelieu upon part of which now stands the town that bears his name. By the terms of the grant, Saurel was put under obligation to render fealty and homage at the Castle of St. Louis at Quebec whenever the performance of such ceremony should be in order, to permit his dependants to carry appeals from the courts of the seigniory to the royal judges, to inhabit and to cultivate his tract and to see that his dependants did likewise, and to perform such other seigniorial duties as

1 Title-deed of the Seigniory of Saurel, granted to Pierre de Saurel, officer of the Carignan-Salières Regiment, October 29, 1672, *printed below*, pp. 34–36.

the terms of the Custom of Paris laid upon all holders of seigniorial lands.

The settlement of the Carignans in New France gave a considerable impetus to the seigniorial system and to the general agricultural development of the colony. Immigrants from France now came in larger numbers, among them numbers of women, whom the home authorities sent out to New France at the intendant's request, in order that the Carignan settlers and others might not want for wives. The colonial population, given as 3928 in the autumn of 1667, had risen to 6282 before the close of the following year. During the years 1667–1672 a large number of seigniories were taken up, and it was in this period that the seigniorial system took a firm grip upon the colony. Under the spur of royal encouragement the country began, for the first time, to assume an air of activity and prosperity, and the colonial authorities ventured to couch their despatches in more hopeful terms. Agricultural progress, however, though promising, was not sufficiently rapid to satisfy the minister, who manifested a disposition to discount the glowing reports of his colonial representatives by calling frequently for detailed statements showing just how much of the granted land was being actually cleared and inhabited.[1] The royal instructions to the effect that uncleared lands should be declared forfeited to the crown were also reiterated;[2] but the colonial authorities, realising the difficulties under which the clearing of the land was being accomplished,[3] usually contrived to avoid any rigorous enforcement of these commands.

During the decade intervening between 1666 and 1676 seigniorial grants had been made by the intendant alone, but in

[1] Memorandum [from the Minister] asking Talon for a Statement of Land Grants made in Canada [1669], *printed below*, p. 31.

[2] Arrêt of the Royal Council providing for the Retrenchment of Land Grants in Canada, June 4, 1672, *below*, pp. 32–34.

[3] Despatch of Talon to the Minister, November 11, 1671, *below*, p. 32.

the latter year it was arranged that thenceforth they should be made by the governor and intendant jointly.[1] From this time forth the title-deeds were usually signed by both officials; but during the intendancy of Duchesneau, when the relations between the two higher officers were badly strained, the intendant undertook the responsibility of issuing the patents upon his own initiative.[2] For this and for his other failures to obey the royal instructions, Duchesneau was soundly rebuked by the minister; and a little later, when royal admonitions had not sufficed to bring about harmony between the governor and intendant, both were recalled to France.

During the last quarter of the seventeenth century the progress of colonial agriculture was, as we learn from the reports of officials, hampered by various drawbacks. First among the obstacles, as emphasised by Duchesneau, was the superior attraction of the fur trade, which drew the men off the land and lured them to the western wilderness. The younger men of the colony succumbed to the fascination of the forest life, and abandoning their lands and families betook themselves by the score to the roving life of the coureur-de-bois. In stemming this hegira the disciplinary weapons of State and Church were alike impotent; and the fur traffic continued throughout the whole period to absorb much of the colony's interest and enterprise.

A second obstacle to agricultural progress lay, as the intendant believed, in the shiftlessness and lack of consistent industry which were too common among the members of that class from which the colony had reason to look for inspiration and initiative. Many of the gentilshommes and seigniors preferred, he said, to lead the lives of country gentlemen, fishing and hunting, but contributing little or nothing to the permanent upbuilding of the colony. Taking no thought for the

[1] Royal Arrêt empowering the Governor and Intendant jointly to make Land Grants in Canada, May 20, 1676, *printed below*, pp. 41–42.

[2] See *below*, pp. 47, 51.

morrow, many of them were in such abject poverty that, in Duchesneau's opinion, they formed an element of the population without which the colony might have got along very well. Elevation to rank in the noblesse, he said, sometimes spoiled the colonist, making him proud and indolent. Noël Langlois, for example, had been a good carpenter until he had accumulated enough to buy an undeveloped seigniory; whereupon he regarded himself as a gentilhomme, and was too proud to work but not too proud to allow his family to suffer in poverty and become a public charge.[1] In a word, those who were the natural leaders of the colonial population were deficient in the prime qualities of economic leadership.

Not least among the difficulties which attended the development of the colony's agricultural resources was the constant danger from Indian raids. Throughout the seventeenth century scarcely a seigniory in the colony was entirely free from attack, for the treacherous bands penetrated at times even to the immediate vicinity of Montreal and Three Rivers. Labourers in all parts of the colony went armed to the fields, and always worked in groups that they might not be taken unawares. Some armed forces were maintained in the colony, to be sure, and the authorities strove in every other way to afford protection to the settlers; but the task of defending those engaged in agriculture against the inroads of marauding redskins was rendered extremely difficult by the disposition of the settlers to scatter themselves, contrary to the royal wishes, in *côtes* along the river bank instead of grouping their houses into compact hamlets or villages. In the course of time the whole northern shore of the St. Lawrence was dotted with the white dwellings of the habitants, the colony taking on the appearance of one long, straggling, village street. The houses, separated as they often were at considerable intervals

[1] Despatch of Duchesneau to the Minister concerning the Progress of Agriculture, November 10, 1679, *printed below*, pp. 49–53.

from one another, might be attacked and burned by the Indians before aid from neighbours could be obtained.

This peculiar distribution of the colonial population was due mainly to the physical configuration of the colony. In the earlier years of French colonisation the St. Lawrence was the only highway of colonial intercourse; hence those who applied for seigniorial grants desired to have their lands border on this stream. As the river frontage was not unlimited, however, the authorities, in locating the seigniories, adopted the oblong shape, giving the grantee a narrow frontage on the river, with a generous depth inland almost invariably two or three times as great as the frontage. The seigniors, in their turn, adopted the same configuration in making subgrants to their dependants, giving to each settler a plot of land with perhaps from ten to twenty arpents in front and from forty to eighty in depth. In time a road was built along the north shore from Quebec to Montreal, passing through each seigniory in turn and forming, as it were, the front door of the whole colony.

By the time this system of distributing the lands was well under way it was natural that nobody wanted a rear location, but that every one, on the contrary, desired to be near his neighbours on the common highway. Hence, when farms were partitioned among heirs, each heir insisted upon having not only an equal area but an equal share in the river frontage. The oblongs were thus divided and subdivided, but always in the original shape, until the holdings became mere ribbons of land with a frontage of a few linear arpents and a depth sometimes of a mile or more. This process was accelerated, moreover, by the operation of the French law of succession to real property, according to which all the children, male and female, took share and share alike in the inheritance of *en censive* lands. Since large families were then as now the rule, an equal division among all the children soon shredded even a large estate into small strips.

As early as 1672 this phase of colonial development attracted the attention of the authorities, and Colbert asked Governor Frontenac to suggest some means of arresting it, not so much, however, because he feared the ultimately detrimental effect of continued division upon agricultural progress as because he saw that the system weakened the defensive strength of the colony. Frontenac was apparently unable to suggest a remedy; but the intendant, Talon, undertook as an experiment the grouping of some of the incoming settlers in three new villages near Quebec. The colony, however, proceeded to develop as before; when the north shore of the river had been pretty well settled, the south shore began to get its proper share of occupants, who located themselves just as their neighbours had done. It was only after the river front on both sides was all taken up that settlers began to betake themselves to the lands back from the St. Lawrence.

Despite these various obstacles, the colony grew at a moderate rate during the closing years of the seventeenth century, its population in 1698 being slightly under fourteen thousand. This population was comfortably housed in over two thousand dwellings, and of the granted lands about thirty-seven thousand arpents had been cleared and were either under grain or in pasturage. During the year 1697 the colony produced over two hundred thousand bushels of grain and maintained more than ten thousand head of horned cattle. All this was evidence of a progress which, if it did not entirely fulfil the royal expectations, was, under the circumstances, not wholly discouraging. Not a tithe of the seigniories had been cleared, it is true, and in very few were the seigniorial dues a source of any substantial emolument to the seignior; but seigniorial lands were beginning to have a market value, and a spirit of land speculation was making its appearance. There were signs, moreover, that in granting lands the seigniors were showing a disposition to stipulate for dues to which they

were not entitled, and in other ways to adopt practices detrimental to the best interests of the colony.

To some of the seigniorial practices which the colonial authorities regarded as harmful the intendant Raudot called attention in a series of complaints made to the minister during the years 1707–1708.[1] First of all he lamented that "a business spirit, which has always more of cunning and chicane in it than of truth and righteousness," had begun to find its way into the colony, where it was every day increasing its pernicious activities. One of the chief manifestations of this business spirit, he said, was the apparent disposition of all classes of the people to take advantage of legal technicalities, and to become involved in lawsuits with one another on every possible occasion, a litigious propensity which the intendant deplored because it "disturbed the peace and quietness of the colony" and afforded the people too many opportunities to neglect the proper cultivation of their lands. Pretexts for litigation there were in plenty; for, as Raudot pointed out, the notaries, bailiffs, and other officials who drew contracts, deeds, and other legal documents were for the most part men of meagre education, quite unskilled in the practice of conveyancing. Hence the records of dealings between the people were usually faulty; indeed, if one may trust the intendant's opinion, it was very rarely that any transaction was carried through in regular legal form. Rights acquired in good faith were thus placed upon a precarious basis; in fact, as Raudot expressed it, there was "no property the possessor of which might not be disturbed, no widow whose dower rights might not be infringed, and no guardian against whom a lawsuit might not be maintained with reference to the accounts of his guardianship." The main cause of this chaotic condition of affairs, the existence of which gave the authorities good ground

[1]Memoir of Jacques Raudot, Intendant, to M. de Pontchartrain, Minister of Marine, on the Growth of Seigniorial Abuses in Canada, November 10, 1707, *printed below*, pp. 70–80.

for misgivings, was to be found, as the intendant took care to point out, not in any defective sense of common honesty,—for business dealings were accomplished and recorded, he thought, in entire good faith,—but in the general ignorance of the parties to transactions and their failure to observe the legal rules. So lax, indeed, he said, was their observance of the most elementary points of law that, were free rein given to their litigious spirit, there would, he believed, soon be in the colony more lawsuits than persons. It was for this reason that, in settling questions concerning the rights of landholders, the intendant thought it well to deal with cases on their individual merits and not in accordance with the strict rules of jurisprudence.

It seemed desirable, however, that the pretexts for litigation should be diminished; and to this end the intendant proposed that the king should issue a decree validating the land titles of all who could show five years' continuous possession. Such a decree, he further suggested, would be the more effective if His Majesty would instruct the royal judges not to hear causes which might be brought before them upon mere technicalities. "It is only thus, My Lord," he added, "that you can establish peace and quietness in this country, which, without this just precaution, will always be unhappy and unable to increase its population; for men ought to attend to the cultivation of their lands without being daily obliged to leave them in order to make defence against persecution." Since he assumed the intendancy, Raudot went on to declare, there had been scarcely a day when he had not been called upon to deal with cases which, if a proper spirit of fairness had prevailed among neighbours, would never have arisen.

In emphasising the litigious character of the population of New France, Raudot drew attention to a point which several other royal officials had not allowed to pass unnoticed, which even Talon had commented upon a quarter-century

previously, and which in the closing years of the French dominion seemed to have lost little of its strength,—namely, the fact that the Norman colonist showed in all that concerned his own petty private interests an ardour which was matched only by his rare indifference to all that affected the welfare of the colony as a whole. Moreover, the haphazard fashion in which land boundaries were delimited, and the indefinite nature of some of his seigniorial obligations, afforded him plenty of pretexts for squabbling both with his seignior and with his fellow habitants; and the long winters set his idle hands free for mischief. Furthermore, as Raudot pointed out, the royal courts were so easy of access and the fees exacted so small that the people resorted to law more freely than they would have done in France, where justice was dispensed less readily and less cheaply.

Passing from general to specific abuses, the intendant called attention to the fact that many of the settlers had on their arrival taken locations at once, without obtaining from their seigniors any formal title-deeds. Some had made oral arrangements with the seigniors; others had accepted simple memoranda, which stated the location of their farms but said nothing about the dues and services payable to the seigniors. "Hence," declared Raudot, "a great abuse has arisen, which is that the habitants who have worked their farms without safe titles have been subjected to heavy rents and dues, the seigniors refusing to grant them regular deeds except on such conditions; and these conditions they find themselves obliged to accept because otherwise they will have their labour for nothing. One consequence of this is that in almost all the seigniories the dues are different; some pay in one way, some in another, according to the different demands of the seigniors by whom the grants have been made."

Neglect to deal fairly with settlers in the matter of granting proper title-deeds was not, however, the only count in

the indictment which Raudot at this time framed against the seigniors of New France. Various other sharp practices were apparently resorted to in order that the seigniorial emoluments might be increased. Thus, it had become the policy of some seigniors, the intendant complained, to exact from their dependants dues and services for which the Custom of Paris afforded no warrant. As the average immigrant to New France was about as well versed in the Code of Hammurabbi as in the Custom of Paris, he was often persuaded to accept terms from the seignior which the authorities properly regarded as extortionate and calculated to deter settlers from coming to the colony. Many of the seigniors, for example, had taken occasion to insert in their land titles "a *retrait roturier*, of which no mention was made in the Custom of Paris," and which permitted the seignior, when a habitant sold his farm, to step in and take it over to himself at the sale price,—a proceeding which, the intendant declared, had served to shackle land transfers. Again, it was customary for many seigniors to stipulate that the annual *rentes* due by the habitants should be paid either in cash or in produce at the option of the seignior, who when prices were low called for money payments, but when prices were high insisted upon receiving his dues in produce. This practice, Raudot declared, was attended with great hardship to the habitants, particularly when the seigniors demanded their payments in money at short notice. It was true, indeed, that the annual *rentes* amounted to but a few livres; but money was so scarce in the colony that the habitants frequently found even small sums difficult to obtain.

Still another seigniorial practice against which the intendant lodged a vigorous protest was the custom of stipulating, in title-deeds granted to settlers, that the latter should bake all their bread in the seignior's oven (*four banal*), paying, of course, a fixed toll for the privilege. The obligation of bake-oven banality was, he admitted, very commonly im-

posed in France; but the absurdity of any attempt to demand and enforce it in a struggling colony, where dwellings were situated often several miles distant from the manor-house, scarcely needed emphasis. It was the intendant's opinion, indeed, that the seigniors of New France had no intention of enforcing the obligation, but that they stipulated for it in the deeds merely in order that they might, at some future time, use it as a pretext for an additional money payment in commutation of the seignior's rights.

In conclusion, Raudot suggested that the king should issue a general edict designed to secure the elimination of the various abuses mentioned in the despatch. This decree, it was urged, should fix definitely the amount of *cens et rentes* which each dependant should annually pay to his seignior, and should provide that this payment be fixed uniformly throughout all the seigniories of the colony. The rate suggested was "one sou and one fowl for every lineal arpent of frontage," or, if the habitant chose to pay entirely in money, twenty sous annually per arpent frontage; but the option in this matter ought, in Raudot's opinion, to rest with the habitant and not with the seignior. He requested, furthermore, that the decree should suppress entirely the right of *retrait roturier*, or seigniorial pre-emption; that it should forbid seigniors to stipulate for the exaction of the oven right; that it should restrict their fishing right (*droit de pêche*) to the privilege of exacting one fish in every ten caught by the habitant; and that it should deprive those who did not proceed with the erection of grist-mills by the expiration of a year from the date of the proposed decree of their right to exact the obligation of mill banality. With reference to the last-named right, the intendant took occasion to point out that some twenty years previously a decree had been issued making precisely the provision now suggested.[1] When this

[1] Royal Arrêt concerning Seigniorial Mills, June 4, 1686, *printed below*, pp. 61–62.

decree reached Quebec, however, it had been promptly pigeon-holed by the attorney-general and his colleagues of the Superior Council, because they thought it detrimental to their own interests as seigniors to allow the provisions of the edict to become generally known. "It is thus," the despatch significantly adds, "that the king is obeyed in this colony, where, I can assure you, the interests alike of the king and of the general public would be entirely sacrificed to the designs of private individuals if they were not constantly guarded."

Raudot's lengthy despatch sheds more light upon the workings of the seigniorial system in the early years of the eighteenth century than can be secured from any other contemporary source, with the exception of Catalogne's elaborate report of a few years later. Its zealous author was one of the ablest and most public-spirited of the various intendants whom the king sent out to New France to exercise supervision over the "justice, police, and finance" of the colony; and his observations concerning the progress of the seigniorial system are, therefore, worthy of careful attention. Himself a man of the people, he naturally, perhaps, leaned somewhat to the side of the habitant; and there are some reasons for thinking that his general accusations of seigniorial avarice were not wholly warranted by contemporary conditions. His conjectures concerning the ultimate purposes of those seigniors who stipulated for the obligation of oven banality were shown by later developments to have been entirely without basis; and his generalisation, based upon a single instance, that the members of the Superior Council evaded the royal commands whenever their private interests so dictated, was not only gratuitous but unfair. With the instincts of repression that were so abundantly characteristic of officialdom under the old régime, Raudot deplored the appearance in the colony of a "business spirit," and lamented the tendency of the people to depart from that "simplicity which prevailed here

formerly"; whereas it was rather the misfortune of New France that from first to last she possessed too little of the business spirit, too little of the spirit of initiative, spontaneity, and enterprise which characterised the people of the New England colonies. In thorough consonance with the intendant's martinet methods was his well-intentioned proposal that all seigniorial dues in the colony should be reduced to the same level, with no allowance for differences in the location or the quality of lands. The hand of authority, already thrust almost everywhere into the private relations of the people, should now venture to determine the monetary considerations of contracts to the fraction of a sou! Perhaps it would be well for those who desire to pass fair judgment upon Canadian seigniorialism in the opening decade of the eighteenth century not to accept Raudot's rehearsal of seigniorial abuses without reasonable reservations.

The intendant's complaints received due attention in Paris. In the following spring the minister of marine, M. de Pontchartrain, made reply that he had been much pained to see the irregularities with which everything had hitherto been done in the colony, and that he fully recognised the evils which would result if the disorganised state of affairs were permitted to continue, but that, since the decree asked for by the intendant would be so radical in its provisions, he deemed it the part of wisdom to proceed slowly. He therefore asked the intendant for more information, and requested him to send a memorandum setting forth more definitely the precise regulations which ought to be inserted in the proposed arrêt. Some of the alleged abuses, the minister suggested, might be remedied by the enforcement of decrees already issued; the decree of 1686, for example, had covered the whole matter of seigniorial banalities.[1]

[1] Despatch of M. de Pontchartrain, Minister of Marine, to Jacques Raudot, Intendant, concerning Seigniorial Abuses and the Administration of Justice in Canada, June 13, 1708, *printed below*, pp. 80–81.

Meantime Pontchartrain transmitted Raudot's letter to two eminent Parisian lawyers, Messrs. Deshaguais and Daguesseau, with a request that they join in drafting a decree which would be effective in the directions pointed out by Raudot, and which would, among other things, "fix the dues and rents of seigniors as well for the past as for the future."[1] This action of the minister gives evidence that matters affecting the development of the seigniorial system in New France were not dealt with in any hasty or ill-considered fashion, and that in framing regulations for promulgation in the colony the best legal talent in France was sometimes called into service. This point deserves more than a passing remark, for historians have been too ready to regard the colonial decrees of Louis XIV. as the crude expressions of monarchical caprice. If, however, many of these decrees, perhaps most of them, did not bear the marks of that omniscience which Bourbon paternalism assumed to possess, it was not because either the king or his ministers treated the administration of colonial affairs lightly or without painstaking care.

In the autumn of 1708 the minister received from Raudot the information and memorandum asked for some months earlier. These were sent together; but one of the documents, which evidently contained a statement showing the wide variations in seigniorial exactions throughout the colony, is not now to be found among the papers in the Ministry of Colonies at Paris, and there is nothing from which we may draw any information concerning its contents other than the knowledge that it was at the time regarded as proving the intendant's allegation of great diversity in the dues exacted from habitants in different parts of New France. In the other paper Raudot reiterated the complaints which he had made

[1] Memoranda of M. de Pontchartrain, Minister of Marine, to Messieurs Deshaguais and Daguesseau, concerning the Royal Edict or Declaration desired by Raudot for the Reform of Seigniorial Abuses, July 10, 1708, *printed below*, pp. 82–83.

the preceding year, and gave some additional details.[1] He laid emphasis again upon the fact that many settlers in the colony had no protection from their seigniors in the way of written deeds setting forth the limits of their obligations, and added that some who had received regular deeds had lost them and now desired to be relieved of the logical outcome of their own carelessness. To make matters worse, he said, the Indian wars had caused many of the habitants to abandon their lands temporarily, and these were now estopped from claiming the prescriptive rights ordinarily arising from continuous possession. It was therefore very desirable, the intendant thought, that possession of lands for a short term—say of five years—should be deemed a conclusive proof of ownership in all cases in which the holder had no proper legal document as evidence of his title.

With reference to his former suggestion that all seigniorial dues should be reduced to the same plane, Raudot called attention to the marked increase which had taken place in these dues during recent years, as compared with the rates current "in innocent times when people did not so much seek their own advantages." Since settlers who came to New France in the first decade of the eighteenth century had to pay much higher rates for locations than were exacted from those who were fortunate enough to arrive in earlier years, he thought it highly desirable, in the interest of incentives to immigration, that the royal authority should be invoked to put the general level of seigniorial dues back upon the old plane. It is greatly to be regretted that the statement of existing rates transmitted by Raudot along with this despatch has not been preserved, for the data which it presumably contained are not to be had from any other reliable source. That there had been a substantial rise in the rate of seigniorial

[1] Despatch of Jacques Raudot, Intendant, to M. de Pontchartrain, Minister of Marine, containing a further Discussion of Seigniorial Abuses, October 18, 1708, *printed below*, pp. 85–87.

dues during the latter part of the seventeenth century is of course extremely probable, not alone in view of the intendant's positive assertion, but because, as more land was taken up, choice locations became more scarce and commanded better terms.

In a further discussion of the seigniorial oven right, Raudot called the minister's attention to the fact that the arrêt of 1686 had dealt with the question of seigniorial mill rights only and had no proper application to the matter of oven banality. Indeed, it would be highly unwise, he thought, to deal with these two rights in the same fashion. The seigniorial mill, he claimed, was "always to the advantage of the habitants, who do not possess the means of erecting these mills themselves"; but the seigniorial oven could never be of any service to the people, for no matter where it might happen to be erected, it would be too far away from the dwellings of most of the settlers in the seigniory. To compel the habitants to use it would, therefore, be to make baking inconvenient for them at all seasons, and fairly impossible during the long winters, "as their dough would be frozen before it would reach the place where the oven was situated." What Raudot desired was that the seigniors should be forced to build mills whether they found it profitable to do so or not, but that they should be forbidden to erect ovens under any circumstances,—an attitude on the part of the intendant that deserves comment as disclosing the utilitarian basis upon which, in the opinion of the colonial authorities, the seigniorial prerogatives were deemed to rest. To Raudot the fundamental question was not whether certain seigniorial rights had or had not a legal basis; as a matter of fact, indeed, the seignior had just as ample legal authority for the exaction of oven tolls as for that of grist tolls. The question was simply whether this or that seigniorial exaction was or was not repugnant to the best interests of the colony in general. The Canadian seignior of the old régime was not regarded as possessing, in his seigniorial prerogatives, any right of property which might not be impaired

without due compensation; it was not until after the British conquest that his privileges came to be looked upon as vested rights.

Differences between the seigniors and their dependants as to the nature and extent of seigniorial privileges were not, however, the only contentions which characterised the progress of seigniorialism during these years. The broad contest between the governor and the bishop in New France, the interminable dissensions between the higher civil and ecclesiastical authorities, all reflected themselves in frequent disagreements between the curés and the seigniors. In the main, however, the relations between these two local magnates were close and friendly, the curé often making his home at the manor-house, which thus became the centre of the religious as well as of the social activities of the seigniory. The church of the parish or seigniory—for the bounds of the two were usually the same—also played its rôle in the general seigniorial drama; for here it was that, at the close of the mass, all important secular announcements affecting the habitants were made. At its door the seignior was accustomed, each autumn, to call formally upon his dependants to remember the approaching festival of St. Martin, when their annual rents would be due and payable; and in the same place the local captain of the militia posted copies of the royal ordinances and edicts when these arrived from the hands of the intendant at Quebec. Within the church, furthermore, the seignior was, by ancient custom, entitled to various honorary privileges which were not accorded to ordinary laymen, and these he frequently insisted upon with an exactness which engendered friction between himself and the local curé. It was to put an end to such unseemly local broils that the colonial authorities in 1709 issued an ordinance which undertook to regulate, even in the minutest details, the precise honours to which a seignior was entitled in the seigniorial church.[1] For his use

[1] Ordinance defining the Honours to be accorded to Seigniors in Seigniorial Churches, July 8, 1709, *printed below*, pp. 88–90.

and occupancy a fixed pew, of the same length as the other pews and not more than double the depth, was to be built on the right side of the main entrance to the church four feet from the altar railing. In all the religious processions the seignior was to take precedence immediately after the curé, and at all the special services his rank was to receive due recognition. One after another his various honours were enumerated with unusual explicitness, in order that no future misunderstandings should arise.

But to return to the complaints of Raudot. It will be remembered that Pontchartrain, while awaiting further information from Quebec, had commissioned two Parisian jurists to draw up "at their leisure" the edict which Raudot had requested. This draft, however, was not promptly forthcoming; in fact, the only copy of it which has come down to us bears the date of May, 1717, and contains intrinsic evidence that it was not prepared until after 1711 at least.[1] It is possible that an earlier draft, not extant, was presented to the minister; but if so it never received the approval of the authorities. Or it may be that either Pontchartrain or the king regarded Raudot's programme as too radical. At all events, the authorities proceeded to remedy the main evils according to their own methods. In the opinion of His Majesty, the fundamental cause of seigniorial abuses was the "business spirit" of which Raudot had complained,—in other words, the practice of holding seigniorial lands for a speculative rise in value. Having become possessed by free royal grant of extensive tracts, fertile and well located, too many of the seigniors spent their energies in haggling with every new settler as to the amount of bonus (*prix d'entrée*) which the latter should pay for a farm. This practice the royal authorities regarded as highly detrimental

[1] Draft of an Arrêt prepared by Messieurs Deshaguais and Daguesseau for annulling all Title-deeds containing Conditions contrary to the Custom of Paris, May, 1717, *printed below*, pp. 157–160.

to the best interests of the colony, for they expected the seigniors to offer inducements to settlers instead of putting obstacles in their way. By the issue of the famous Arrêts of Marly, therefore, the home government sought to dictate a change in the attitude of colonial seigniors.[1]

The preamble of the first of the two arrêts states the royal view of the situation very succinctly. "The king having been informed," it runs, "that among the tracts of land which His Majesty has been pleased to grant and to concede *en seigneurie* to his subjects in New France, there are some which have not been entirely settled, and others upon which there are as yet no settlers to bring them into a state of cultivation, and upon which also those to whom they have been conceded in seigniory have not yet begun to make clearings for the purpose of establishing their domain thereon; and His Majesty being also informed that there are some seigniors who refuse, under various pretexts, to concede lands to settlers who apply to them, preferring rather the hope of selling them and at the same time obtaining the customary dues, all of which is entirely contrary to His Majesty's intentions, and to the clauses and conditions of the seigniorial title-deeds by which they are permitted to grant lands only at an annual ground rent, the whole practice being very unfair to incoming settlers who thus find land less open to free settlement in locations best adapted for trade,"—in view of all this, it is therefore enacted that, "within the space of one year from the date upon which the present decree shall be published, the inhabitants of New France, to whom His Majesty has granted lands in seigniory and who have no territories cleared and no settlers on their seigniories, shall be held to place settlers thereon, in default of which the said lands shall be re-annexed to His Majesty's domain." It was furthermore ordered that seigniors should "concede to settlers the lots of land" which the latter might "demand

[1] The Arrêts of Marly, July 6, 1711, *printed below*, pp. 91–94.

of them in their seigniories, at a ground rent, and without exacting any bonus as a consideration for such concessions." In default of such action on the part of the seignior, the edict permitted settlers to apply to the royal authorities at Quebec, who were empowered to make the desired grant directly, the dues in such case to go to the royal treasury and not to the avaricious seignior.

By the terms of this arrêt the position of the Canadian seignior with respect to his ungranted lands was completely changed. Down to 1711 he had been legally free to allot or to hold his lands, as he chose; he now became, in the eyes of the law, little more than a land-granting agent of the crown, a trustee holding lands for incoming settlers and required to grant them at customary rates of dues and services. In the language of the jurist, he lost his *dominium plenum* in the lands and became a *fideicommis* of his sovereign. The provisions of the arrêt thus differentiated the seigniorial system in Canada from its prototype at home, for in France a seignior was under no legal obligation to subinfeudate his fief; on the contrary, the Custom of Paris allowed subinfeudation only to the extent of two-thirds of the area of a seigniory, and even this it permitted only under certain restrictions. In regard to New France, however, the action of the royal authorities was dictated by their desire to adapt the seigniorial system to the needs of a new colony into which settlers came at best so slowly that it behooved the king to see that no unnecessary hindrances were placed in their path. The first arrêt of Marly is, therefore, of high importance in the history of Canadian feudalism, for it forms the basis of the *jeu de fief*, an incident peculiar to the system as it developed in the colony but never characteristic of seigniorialism at home.

The second Arrêt of Marly, which bears the same date as the first, testifies to His Majesty's conviction that the seigniors of Canada were not the only ones to blame for the

tardiness of colonial development, but that the people as a whole had failed to put forth their best efforts. "The king being informed," runs the preamble of this edict, "that there are lands conceded to the habitants of New France which are neither settled nor cleared, but on which the habitants content themselves with cutting down some trees," thinking by this means to secure themselves a right of property, His Majesty could not but look upon this attitude as highly prejudicial to the best interests of the colony, in that it prevented more industrious settlers from securing the lands and bringing them under cultivation. It was His Majesty's desire, as the decree expressly stated, that no habitant should be permitted to hold lands which he did not clear and develop; hence it was ordered that unimproved lands should, on the expiration of a year, be taken away from the grantees and reunited to the seigniorial domain. This forfeiture was to be decreed by the intendant upon the production of certificates signed by the local curé and the captain of the militia.

The two Arrêts of Marly supplement each other, the one being designed to protect the interests of the crown against apathy on the part of the seigniors, the other to stir up those habitants who were not disposed to help the seignior in fulfilling his responsibilities. In a word, the seigniors were now forced by law to show some zeal in getting settlers for their lands, and were at the same time provided with a means of spurring these settlers to activity. Indeed, if the provisions of the two decrees had been enforced to the letter, the shores of the St. Lawrence would have undergone a remarkable transformation in the course of a single twelvemonth, or else half the landholders of the colony would have lost their properties. As a matter of fact, however, the provisions of the first arrêt were treated with almost entire disregard. Catalogne's elaborate report of a year later shows that many seigniories had very few settlers, others none at all; and yet, with a single exception, not one of these was declared

forfeited in accordance with the terms of the decree. The seigniors apparently continued to exact from newcomers sums which were quite in excess of the customary rates, but which they found applicants quite willing to pay. Occasionally, to be sure, settlers refused the proffered terms and appealed to the intendant for grants, as the decree permitted them to do; but such procedure was extremely uncommon. With respect to the provisions of the second arrêt the case was somewhat different, for here the initiative in the matter of enforcement was given to the seigniors and not to the authorities. When settlers showed tardiness in clearing their farms, the threat of forfeiture was effectively used, and was sometimes carried into action. During the twenty years following 1711, over two hundred farms were re-annexed to seigniorial territories by decrees of the intendant, the seigniors in each case presenting the necessary evidence that the lands had not been promptly cleared and cultivated.

Still, it would be hardly fair to assert that the first arrêt accomplished nothing. Although the colonial authorities did not enforce its provisions to the extent of revoking seigniorial grants which should properly have been forfeited, it is unquestionable that many seigniors bestirred themselves to action lest the machinery of coercion should be set in motion. At any rate, the area of cleared lands nearly doubled during the decade following 1711, despite the fact that the number of new settlers during this period was not large.

At this point one may properly take a general view of the seigniorial system in Canada; for by the close of the first decade of the eighteenth century it was entering upon its more mature stage. It is, moreover, in this era that one encounters, in the report of a French engineer, Gédéon de Catalogne, the only trustworthy and comprehensive description of the seigniories which the whole mass of documentary data relating to New France seems to include; for not till after the conquest was any similar description of all the

seigniories again undertaken. At the request of the intendant, Catalogne prepared, and in 1712 presented, an elaborate report on the location, ownership, development, and resources of all the seigniorial holdings in Canada, a work for which he equipped himself by visiting every seigniory in the colony and thus gaining his information at first hand. This report, which was accompanied by three accurate maps of the seigniorial lands in the districts of Montreal, Three Rivers, and Quebec, was designed to give the home authorities "as thorough a knowledge of Canada as was possessed by those who had lived in the colony for many years." [1]

It may well be doubted whether any one save Catalogne had at any stage of the French régime a personal knowledge of conditions in every seigniory of the colony; indeed, it is extremely unlikely that any other official had ever even visited them all. When one remembers, therefore, that Catalogne's report is the work of a trained engineer who wrote from personal inspection, and whose capability of careful observation is amply evidenced in his other writings, the value of the document becomes obvious. At the same time, the report has its inherent failings. It is mainly topographical; it deals with the resources of the various seigniories in terms which are for the most part too general to be of high service; and it gives us scarcely a word with reference to the actual working of the relations between the seigniors and their dependants. Much of its value arises from the simple fact that, while the information contained is elementary enough, it is such as cannot be obtained from any other trustworthy source. Such as it is, moreover, it seems to be unusually accurate; for a very careful comparison of the paper with data drawn from a variety of other sources has failed to disclose more than a few minor errors. Catalogne's style of writing, it is true,

[1] Report on the Seigniories and Settlements in the Districts of Quebec, Three Rivers, and Montreal, by Gédéon de Catalogne, Engineer, November 7, 1712, *printed below*, pp. 94–151.

leaves something to be desired; but, on the other hand, the subject-matter of the report afforded little scope for the exercise of literary qualities. With all due allowances, the document is of high value to those who desire to obtain an accurate idea of the progress which the colony had made during the first century of its colonisation by the French.

Beginning at the western end of the colony, at the confluence of the St. Lawrence with the Ottawa, the report takes the reader eastward to the Gulf, passing through some ninety seigniorial properties in all, which are described with a degree of fullness varying with the importance of the seigniories. In each case the report sets forth the location and extent of the tract; the nature of its soil and its adaptability to products of various sorts; the existence or the absence of natural resources in the way of mineral deposits, standing timber, or building materials; the facilities for the development of fishing industries; the name and rank of the seignior, and the way in which he had come into possession of the lands; the extent to which the lands had been cleared and settled; the provisions made in each seigniory for religious services; and various other incidental data. Much of this information the authorities at Quebec had already on file in the form of *aveux et dénombrements* made by the various seigniors; but, as much of it was not thus available, the work of Catalogne served not alone to verify the files which were already at hand, but to supplement them at many points.

The Island of Montreal, now the Canadian metropolis but at this time the patrimony of the Seminary of St. Sulpice at Paris, was the first seigniory to engage the engineer's attention. This most important seigniorial property contained in its six parishes a population well in excess of 2000, and was even at this time reckoned among the most valuable seigniories of New France. Having brought the island from a sheer wilderness to a prosperous town of 5000, the Paris seminary handed it over, in 1764, to its protégé the Seminary

of St. Sulpice at Montreal, by which a considerable portion of it continues to be held at the present day; for the lands of the seminary were excepted from the compulsory provisions of the Seigniorial-Tenures Abolition Act of 1854. A large part of the original seigniory has been sold at various times, and is now held in free and common socage by private owners; but the seminary itself still ranks as one of the largest landowners in the province of Quebec. The neighbouring smaller Isle Jésus belonged to the Quebec seminary; but it had been so ruthlessly swept by Iroquois raids that it had now very few settlers, and was used mainly for the pasturage of cattle owned by the seminary. Just to the northwest lay the seigniory of Mille Isles, comprising the little archipelago of islets first granted to Captain Sidrac Dugué of the Régiment de Carignan-Salières. Dugué, however, with the characteristic improvidence of a soldier, had allowed the seigniory to slip from his hands into those of his creditors, and the property was at this time in the possession of Nicholas Dupré, a Montreal trader and money-lender. On the north shore of the St. Lawrence, just below these islands, were the seigniories of Lachenaie and Repentigny or L'Assomption, both of them originally the property of Le Gardeur de Repentigny. Here, on a snowy November day in 1689, the redskins had left their trail of blood and pillage; and here also, in 1691, the Chevalier de Vaudreuil had taken effectual revenge by annihilating a band of forty Iroquois who had permitted themselves to fall into the Frenchman's well-laid trap.

Passing along the north shore of the river, the engineer described the spacious seigniory of St. Sulpice (also the patrimony of the Seminary at Montreal), and, off shore, the seigniory of Isles Bouchard, owned jointly by Captain Joseph Desjordy and the heirs of Jarret de Verchères. The marshy character of these islands, he said, had rendered them unattractive to settlers; but when placed under the plough the soil brought forth harvests abundantly. Flanking the seigniory

of St. Sulpice lay the fief of La Valterie, named from the deceased Margane de la Valterie, in his lifetime a lieutenant of the Carignans. With a soil only "ordinarily good," and the misfortune of having had its earlier settlers decimated by the savages, this seigniory had managed to hold its own in the matter of development. The adjacent fiefs of Lanoraie and Derrière Dautré were held mainly by Jean-Baptiste Neveu, a Quebec merchant, who had given them little of his attention. Lanoraie contained but few settlers, not so much because its soil was poor as "because the mills were situated at long distances from the residences of the curé and the seignior." Derrière Dautré was without inhabitants, the Mohawks having laid it waste after massacring both the original seignior and his dependants. Passing by the adjoining fief of Dautré, originally one of the various properties of Jean Bourdon, first surveyor-general of New France, but now in the hands of Chorel de St. Romain, Catalogne reached the important military seigniory of Berthier-en-Haut, given originally to Lieutenant Randin of the Carignan regiment, but shortly afterwards transferred to Alexandre Berthier. In 1712 it was held by the Sieur de Rigauville, who had married Berthier's widow. With its augmentations it formed one of the most extensive of the seigniories, besides being excellently situated and possessing a fertile soil. In this seigniory, which marked the eastern limit of the district of Montreal on the north side of the river, substantial progress had been made, a large part of the lands having been parcelled out to settlers.

Proceeding along the south shore from Montreal eastward, Catalogne mentions first the fief of Isle Perrot, so called from the name of its original owner, a former governor of Montreal, but now in the hands of one Trottier, who was alike seignior and sole inhabitant of the island. On the mainland the fief of Châteauguay, once the property of the Lemoynes, gave new proof of Iroquois devastation. Hunting

the beaver and luring the salmon engaged the energies of its few inhabitants, few of whom showed any partiality for the steady toils of yeomanry. The adjoining tract, known as the Mission of Sault St. Louis, was held in mortmain by the Jesuits, who kept it as a reservation for the Christianised Indians under their care, a use to which it has been consecrated ever since. In Catalogne's time, as at all other stages of redskin economy, the lands of the Mission were cultivated by the squaws, the braves preferring to occupy themselves "in hunting, fishing, and war." With this location as a base, however, both French and Indians carried on a considerable clandestine commerce with Albany. Alongside the Mission lay two more Jesuit fiefs, La Prairie and St. Lambert, both of which, like all the other estates belonging to this order, were being steadily cleared and improved.

Largest in point of area, however, and most valuable among the south-shore seigniories in the district of Montreal, was the fief of Longueuil, now ranking as a barony. It was first settled by Charles Lemoyne, the son of a Dieppe innkeeper, and one of the earliest immigrants to the colony. At his death it passed to his eldest son, also Charles Lemoyne, who in 1700 was made first Baron de Longueuil by a patent setting forth in grateful terms the signal services which the seignior and his nine adventurous brothers had rendered their sovereign alike in peace and in war. The barony of Longueuil was at this time wearing an air of progress and prosperity. It had numerous inhabitants, who found the life of the yeoman made easy by the considerable sums which the baron had spent in draining and improving the lands for cultivation; and even at this stage in its development it was well provided with mills and churches, not to speak of the pretentious baronial château flanked by its four towers of solid masonry, which reminded the newcomer of the embattled castles of old Normandy. Here the seigniorial system was working out so logically in all its various phases that the

authorities never failed to point to Longueuil as giving substantial evidence of the steady march taken by New France along the path to power and opulence.

Eastward of Longueuil lay Tremblay, once the fief of René Gaultier de Varennes, but now the estate of his heirs. With the Isles Lamoureux, which were comprised within the tract, the fief maintained a fair quota of inhabitants, many of whom were now in a position to enjoy the fruits of their earlier industry. Varennes, Boucherville, Isle Ste. Thérèse, La Trinité, and Grandmaison, all seigniories of interest and importance, came in for their share of Catalogne's attention as he passed on to the well-known fief of Verchères, which, when the Carignans disbanded, had become the heritage of François Jarret de Verchères, one of the regiment's vigorous younger officers. Here again there were evidences of Iroquois maraudings, disastrous in the main, although on one notable occasion the seignior's young daughter had rallied the few available settlers and sent the redskins skulking back to the forests. The fiefs of Chicouanne (or Bellevue) and Boisseau (or Boisselière) occupied the extensive range of shore between Verchères and Contrecœur, but had no inhabitants except their respective seigniorial proprietors. Antoine Pécody de Contrecœur, captain in the Carignan-Salières, was the first seignior of Boisseau; but the estate was now in the hands of his son and his son-in-law. Thus were the Carignan veterans making way for the first generation of their descendants. The adjoining fief of St. Ours was still held by one of the few remaining Carignan officers, Captain Quinson de St. Ours, on whom His Majesty had bestowed the bounty of an annual pension. St. Ours had not been a successful seignior. His seigniory had not held its place in the line of progress; for, according to the report, his dependants spent more time in squabbling among themselves than in making the land yield its increase.

Somewhat farther along the south shore, at a point where

the Richelieu drains the waters of Lake Champlain into the St. Lawrence, lay the extensive and historic fief of Sorel, originally chosen by the Carignan captain, Pierre de Saurel, as his share of the lands which the king had authorised the intendant to distribute among the officers of the regiment some forty years previously. Saurel had died without direct heirs, and his decease had been followed by prolonged litigation over the ownership of the seigniory; indeed, the outcome had not been reached when Catalogne visited the tract on his tour of investigation in 1711. For purposes of trade the location of the fief was one of the best in the colony; but its situation upon the main highway of communication with the south laid it open to Iroquois attack. In spite of its large area, therefore, and its fertile soil, the seigniory of Sorel was at this time sparsely settled; but later, when the place was more strongly fortified and garrisoned, it speedily augmented its population, and before the close of the old régime it was one of the distinctly urban communities of the colony. Near by, in the St. Lawrence, was Isle Dupas, owned by the labourer, Jacques Brisset; and in the rear of Sorel, extending along the Richelieu, stretched the seigniory of Chambly, likewise one of the Carignan fiefs. Captain Philippe de Chambly had been its original owner; but he soon grew tired of the colonial environment and betook himself home to Europe, where he remained until his death. Thereupon the seigniory passed, through rather romantic channels, into the hands of young François Hertel, who became the progenitor of the notable family of Hertel de Chambly. As the fief lay in the centre of the danger zone, it possessed a stone fort, in which a small garrison was maintained; but, despite the protection thus afforded, the number of inhabitants was small, for, as Catalogne remarked, the seignior had been very remiss in his attentions to the property. The Hertels, like many others of the colonial noblesse, found a congenial vocation in raiding the

border hamlets of New England, and were not easily moved to any zeal in beating their spears into ploughshares. To their success in errands of massacre and pillage the annals of Deerfield, Haverhill, and other colonial hamlets of Massachusetts bear harrowing testimony. How New England hated them let her records attest; for some of the reddest bloodstreaks in the pages of Puritan history mark the path of these Canadian Hertels.

Concluding his outline of the seigniories comprised within the district of Montreal, Catalogne passes to a brief description of the fiefs in the district of Three Rivers, which extended on the north side of the river from Berthier-en-Haut to Ste. Anne des Grondines, and on the south shore from St. Jean-Deschaillons eastward to Yamaska. Several of the seigniorial properties in this district were of small importance, supporting but few inhabitants and remaining almost wholly unforested. Maskinongé and Rivière du Loup were held by merchants of Three Rivers, the intervening little fief of St. Jean standing in the name of the Ursulines, who as yet had given it none of their attention. Petit Yamachiche belonged to the widow of Boucher de Grand Pré, and the neighbouring fief of Grand Yamachiche to the brothers Le Sieur. An unnamed seigniory adjoining had been granted to the younger Boucher de Boucherville, by whom it was still held, though his forty years of tenure had not shamed him to the clearing of a single arpent. Still farther eastward and approaching the site of the present city of Three Rivers lay the fief of Pointe du Lac, or Tonnancour, the estate of the Godefroys de Tonnancour, with a single settler marking the limits of agricultural achievement. Bordering it was the Jesuit seigniory of Cap de la Magdelaine, possessing a sandy soil unfavourable for grain-raising but rich in iron ore. The character of the land compelled the inhabitants to fertilise the ground by scorching the stubble, and only by vigorous labours could it be made to yield remunerative harvests; but the

seigniory was well located, and in the course of time became very valuable. Passing by the uncleared fiefs of Lapierre and Arbre-à-la-Croix, both of which were arrière-fiefs, or subseigniories, and should not have been enumerated among the regular seigniorial properties, Catalogne mentions his own seigniory of Prairies Marsolet, which lay between the larger fiefs of Champlain and Batiscan. This tract of land the engineer had acquired through his wife, who was a granddaughter of Nicholas Marsolet, the first grantee, and one of the pioneer settlers of New France.

The seigniory of Champlain, owned by Desjordy de Cabanac, and its neighbour the fief of Batiscan, which was the patrimony of the Jesuits, both included large areas of excellent land, and had numerous settlers. Progress had also been made in the seigniories of Le Moine and Ste. Anne de la Pérade near by, the latter of which marked the eastward limits of the district of Three Rivers along the north shore. Across the river and a little to the westward the fief of Yamaska disclosed abundant resources very scantily developed; and beyond it lay the seigniories of St. François and Lussaudière, the former inhabited chiefly by domiciliated Abenakis Indians, the latter with no settlers at all,—indeed, Catalogne could not even discover who its owner was at that time. Beyond St. Antoine, a small fief comprised within the parish limits of Three Rivers, extended the well-known seigniory of Nicolet, originally a Carignan allotment but now held by the family of Courval. Then came Godefroy, badly dismembered among the heirs of Godefroy de Linctot, and, farther on, the fief of Bécancour, which at the time of the report was in the hands of Pierre Robineau de Bécancour, son of the Baron de Portneuf. The seigniory of Bequet, owned by Louis Lévrard, master gunner at Quebec, and that of Rivière du Chêne, owned by Pierre de St. Ours, bounded to the westward the district of Three Rivers on the south shore of the St. Lawrence.

Although the district of Quebec was the first to be allotted in seigniories, the amount of progress that had been made here was not substantially greater than in the two other districts. On the north shore the fiefs of Grondines, La Chevrotière, and Eschambault occupied the river frontage from Ste. Anne de la Pérade to the barony of Portneuf, which had in 1681 been elevated from a simple seigniory to the higher rank and dignity in order to mark the royal appreciation of its owner's services in the cause of colonial development. Unlike most of those to whom the king was kind, René Robineau de Bécancour, the recipient of the signal honour, was not a soldier, but his zeal in the promotion of the colony's economic interests had made him a worthy subject for His Majesty's praise. The fiefs of Jacques Cartier, Pointe aux Escureuils, Pointe aux Trembles, Demaure, Gaudarville, and Bonhomme, each claim a paragraph in Catalogne's description, which goes on to mention the historic seigniory of Sillery with its four well-settled parishes. This fief, which bulks large in the earlier annals of the colony, was the frankalmoigne of the Jesuits, who more than a half-century before had located upon its fields the remnants of the Huron tribes after their territories by the Georgian Bay had been ravaged by the plundering Iroquois. Near by was the other valuable Jesuit fief of Notre Dame des Anges, one of the very earliest of the seigniorial grants, and the one in which Talon had established his three small villages of settlers sent out by the king from France. The soil of this seigniory Catalogne found to be of the most excellent quality, "producing abundantly all sorts of grain, vegetables, and fruits." Part of the tract was used as a landing base by the Phipps expedition in 1690, when its leader summoned the Great Ononthio to capitulation and was given answer through the cannon's mouth.

One of the most interesting fiefs was that of Beauport, destined to loom up prominently in the days when Montcalm

held Wolfe at bay along the Beauport shore. This was the first seigniory granted by the Company of One Hundred Associates, and its first holder was Robert Giffard, a Percheronne, who had come to the colony in its swaddling days. Giffard gave the best years of his life to the improvement of his property, and the results entirely justified his zeal. Around him gathered scores of settlers brought out from Perche by his own efforts, to whom he was affectionately known as the Marquis de Beauport, although no rank in the noblesse had ever been conferred upon him. Giffard died in 1668, and in Catalogne's time the fief was held by his heirs, the family of Juchereau Duchesnay. Near Beauport was Cap Tourmente, originally the property of the Huguenot trader Guillaume de Caën, but now in the hands of the Quebec seminary, which also held the neighbouring fiefs of Baye St. Paul and Isle aux Coudres. Off shore lay the spacious Island of Orleans, once the property of Bishop Laval, but exchanged by him for a fief at Montreal, and at this time owned by François Berthelot. More than thirty years prior to the date of the report the king had elevated this fief to the rank of a countship, and since that time Berthelot had borne the title of Comte de St. Laurent. Catalogne notes that in his day the inhabitants of the island busied themselves in the domestic manufacture of *étoffes* and crude cloth, which they sold in large quantities. It was a very large seigniory and contained five parishes, all of which were provided with religious care by priests of the seminary at Quebec.

To the southwest, on the mainland, lay the fief of Lotbinière, the seat of the well-known family of the Chartiers de Lotbinière, in whose hands it remained through all the vicissitudes of the colony down to the abolition of the seigniorial system. Le Platon de la Sainte-Croix was held by the Ursulines of Quebec, and the fiefs of Charest and Maranda by the labouring seigniors whose names they bore. Short paragraphs of the report suffice for several other seigniories of

the Quebec district, among them those of Villieu, Lauzon, Mont-à-Peine, Beaumont, Durantaye, Bellechasse, Rivière du Sud, Bernier, Gagné, Vincelot, Bélanger, and Dutarte. These with the seigniories of Grande Ance, Isle aux Oyes, Isle aux Grues, Rivière Ouelle, Kamouraska, and Pointe aux Alouettes complete Catalogne's list; but two or three more, which are not described in the main body of the report, among them Gentilly and Lingtot, are mentioned in its closing pages.

In summarising the results of his investigations and making suggestions for expediting the agricultural progress of the colony, Catalogne commented first of all upon the scarcity of labour in New France. So much land had been granted that four times the amount of available labour would not suffice, he thought, to bring it into cultivable shape in any reasonable time. The methods of cultivation were so slovenly and crude, moreover, that, although the soil of the colony was not lacking in fertility, the harvests compared very unfavourably with those obtained in France. In a word, there was not a sufficient quantity of land under cultivation, and what there was did not yield its proper increase. Again, in view of the shortness of the working season in New France, and of the fact that bad weather not infrequently further diminished this period, the Church authorities were unreasonable, Catalogne thought, not to permit the people to work upon the holy days. So numerous were these, indeed, that during the whole agricultural season, from May to the end of September, the average habitant did not get more than ninety clear days for labour. During this brief period, less than one-fourth of the year, he had to provide his whole annual subsistence.

But the curse of Canadian agricultural interests, as noted not only by Catalogne but by every other observer of conditions under the French rule, was the seductive charm of the fur traffic. The settlers seemed to be always ready to leave

their farms and betake themselves to the forests, often losing the whole agricultural season for the sake of making a little money in the operations of trade. It has been the custom of many writers, including even the gifted Parkman, to comment rather harshly upon the absence of individual enterprise and initiative which seemed to characterise New France throughout the old régime, a feature which they have set in striking contrast with the economic vigour and aggressiveness displayed during the same epoch by the New England colonies to the south. It may be, indeed, that in the long conflict between Gaul and Albion the inherent superiority of the latter in point of moral stamina, masculinity, and economic aggressiveness inevitably determined the ultimate issue; but such an explanation of the fall of New France overlooks too readily one very awkward but no less important historical fact—namely, that the Canadians of the French era were overwhelmingly of Norman stock. Now, the Norman of the seventeenth and eighteenth centuries was not a typical product of Gallic civilisation; between him and the Teutonic settlers of New England no very great racial gulf was fixed. The blood of the conquering Norsemen still flowed vigorously in his veins, and showed itself in his unquenchable love of the forest life and his lust for plundering raids. He roved the wilderness as his ancestors had roved the Seven Seas, and with the same daring and persistence. Unstable as water, he did not excel in the arts of peace; but his lack of excellence is not attributable to any inherent dearth of masculinity characteristic of his race. Indeed, if the Norman race has lacked the qualities of physical or moral virility, the chronicles of France, of England, and of Sicily have certainly borne false witness. It was not the lack of these qualities, but the exuberance of them, that rendered the Norman habitant open to Catalogne's strictures.

Although the cultivation of grain and vegetables had, as the report showed, made encouraging if not remarkable progress, Catalogne thought it well to emphasise the desirability

of insisting that the habitants should devote more attention to the cultivation of flax and hemp, products which he thought could be raised in the country with excellent results. He also complained that the settlers kept themselves poor by maintaining too many horses. In a country where forage and equipages were alike expensive, every habitant, however poor, he said, thought it necessary to keep some horses, which might, of course, be used to advantage in the processes of agriculture during perhaps four months of the year, but which could do little but eat their heads off during the long winters. The people should be encouraged to keep horned cattle instead, he suggested ; for the maintenance of a single horse cost as much as that of two steers, and the latter could be sold for a much larger sum.

To some extent, Catalogne thought, the seigniors were to blame for the existence of many inconveniences with which their dependants had to contend. Some of these might be removed, he believed, if the seigniorial proprietors were obliged to set aside parts of their ungranted domains to be freely used by the habitants for the pasturage of their cattle, and if they could be compelled to provide grist-mills to which the people might conveniently bring their grain ; for, as matters stood, the habitants sometimes had to cart their grain forty or fifty miles before they could reach the nearest mill. He further suggested that, when lands were given to incoming settlers, no seigniorial dues of any kind should be exacted for the first six years,—a recommendation which various other royal officials had made, but which seems never to have met with favourable consideration at Versailles.

One of the chief hindrances to the proper movement of population into some of the outlying seigniories, Catalogne found in the lack of means of communication between different parts of the colony. He therefore proposed that the chief road supervisor (*grand voyer*) should be instructed to proceed with greater vigour in the construction of roads and

bridges. Another of his suggestions looked toward the erection of granaries at various points, so that grain might be held over from one year to another, and alternate gluts and scarcities be prevented. Thus the price of wheat in the colony might be kept from pursuing the antics of a jack-in-the-box. Although Catalogne can scarcely be termed a reactionary in his economic views, he seems to have been impressed, also, by the "spirit of cunning and chicane" which had brought forth the rebukes of Raudot some five years previously; for he suggested that severe chastisement should be inflicted upon all who might hereafter be convicted of "fraud, bad faith, or imposture." Evidently the Norman was not slothful in business when it came to advancing his own interests by sinister methods. Catalogne hoped that the work of the notaries might also be so improved that less litigation would be possible; and he thought that some simplification of the judicial system might be brought about by the appointment, at the various colonial towns, of judge-consuls, who should have jurisdiction over commercial disputes. He further proposed that, since the navigation of the St. Lawrence was dangerous at all seasons, and since Canada did not possess a single competent pilot, a certain number of picked men should be trained in the art of pilotage, a step which would be well timed now that shipbuilding was taking its place as a colonial industry. He also took occasion to commend as highly advantageous to the colony the practice of discharging soldiers from the regular garrisons whenever their terms of service expired, and of encouraging these to marry and become permanent settlers in New France.

On the matter of land boundaries Catalogne laid special stress. If His Majesty desires to "root out a hotbed of strife and bad feeling between the seigniors and their dependants," said he, "he will take measures to ensure peaceable possession to those settlers who have held their lands for long periods in good faith, and this without too much regard to the exact

boundaries as these may have been defined in the original title-deeds." As matters stood, Catalogne asserted, the whole question of land boundaries was in hopeless chaos; for, since the surveying had been done by unskilled persons, any attempt to adhere rigidly to the lines laid out would not only involve a victory of chicane over justice, but would in some cases encounter physical impossibilities. Catalogne was not the only writer who commented severely upon the haphazard way in which metes and bounds were set in New France, and upon the flood of ill-tempered controversy which had its origin in the methods of demarcation. The first surveyor-general of the colony, Jean Bourdon, came out to Quebec as a governor's valet; and when or where he received training in mathematics or surveying no one has ever been able to discover. If his map of the seigniories on the Lower St. Lawrence, prepared in 1641, be compared with the charts which accompanied Catalogne's report, the crudity and amateurism of his work are so apparent as to make one doubt whether the simple axioms of plane geometry were within Bourdon's fund of knowledge. To a man of Catalogne's engineering skill this cartographical chaos seemed intolerable; and he naturally insisted with energy that it should not be permitted to operate to the disadvantage of property-holders who were in no wise responsible for its existence.

In addition to affairs of such general importance, many minor points obtained their share of Catalogne's attention. The practice of allowing cattle to run at large was censured, on the ground that it frequently resulted in damage to the crops and was responsible for engendering a great deal of ill-feeling between neighbours. Habitants, he said, should be forced to fence their pastures. Again, since most of the streets in Montreal and Quebec were so full of boulders and mud-holes as to be impassable, it would be the part of wisdom, he thought, to set aside some funds for their im-

provement. Still another point to which he called attention was the fact that too little deference was shown to the seigniors by their dependants. Ordinary habitants, he asserted, who happened to hold minor offices,—local captains of the militia, for example,—strutted about with an air of independence, and denied their seignior the respect which was his due. Such a difference in manners between New and Old France must have impressed a well-bred Frenchman of Catalogne's type; but he might have remembered that many of the Canadian seigniors were men who had risen from the ranks of labourers, traders, and the like, that comparatively few among their number had generations of noblesse behind them. Apart from the Carignan officers, indeed, the typical Canadian seigniors were men like Hébert, the former Paris apothecary; Lemoyne, the son of a Dieppe innkeeper; Noël, the Montreal carpenter; and Le Ber, the colonial fur-dealer, who had made in the Indian trade a fortune large enough to yield him repute as the richest man in the country. Of the eighty or ninety seigniorial properties named in Catalogne's report, no less than ten belonged to merchants and twelve to simple yeomen (*laboureurs*). Many of these seigniors, though sprung from the ranks of commoners, were sufficiently opulent to maintain a dignity consistent with their rank; more frequently, however, the seignior found it necessary to live and toil like his dependants, eking out a livelihood which gave to even the poorest habitant no reasonable basis for envy. Naturally enough, therefore, "the deference due by vassal to lord was not always accorded"; indeed, in the rigorous conditions of pioneer life in the New World there was little room for the frills of feudalism.

From first to last in the annals of New France the unremitting cry of officialdom was for settlers. From Talon to Bigot this was the burden of the intendant's annual memoir, the monotonous reiteration having on one occasion drawn from the home authorities the reminder that the king did not propose to people Canada by depopulating France. In

this hue and cry for immigrants Catalogne very cordially joined, his recommendation that the king should send out "all sorts of artisans" being perhaps a little less specific than most prior requests of a like nature. It was, indeed, with this appeal for more men, followed by a word in regard to the expensiveness of living in the colony, that he concluded his observations.

When this elaborate memorial, with its excellent cartographical folios showing the location and extent of all the seigniories of the colony, reached the French authorities, the seigniorial system had been well established in New France for upwards of half a century. In that time grants totalling several millions of arpents had been made; in fact, all the best locations on both shores of the St. Lawrence from Montreal to a point well below Quebec had been allotted, as well as all the best lands along the Richelieu. Of this extensive area not more than fifty thousand arpents, or somewhat less than twenty arpents per capita of population, were under cultivation when Catalogne made his inspection, a showing which must have convinced the royal advisers that the colonial authorities had been far too generous with the seigniors. Large tracts of land, given on the most favourable terms, had, as the report indicated, been held for more than a generation, and yet could muster but a single settler, and sometimes not even that. The whole brunt of agricultural development had been borne on the shoulders of comparatively few, most of the seigniors having shown a remissness which well deserved the royal censure. Manifestly, the memorial as a whole could not have impressed the minister as encouraging; hence it is not strange that, a few years later, definite orders were issued to the governor and intendant that no further seigniorial grants were to be made without the prior approval of the king. This decision appears to have been communicated to the governor of New France in June, 1716; but, as the despatch has not been preserved, our know-

ledge of its contents is derived entirely from direct references to it in a later letter of instructions.[1] In accordance with these orders, no seigniories were allotted during the next decade, from 1717 to 1727.

Meanwhile the authorities bestirred themselves to secure more settlers for Canada and to improve the condition of those who were already established there. With this object in mind, Governor Vaudreuil in 1716 forwarded to the Duc d'Orléans, regent of the kingdom, a plan for increasing the population of Canada "without denuding the kingdom of useful citizens and without any expense to his Majesty."[2] He proposed that numbers of salt-smugglers who had been condemned to work on the galleys should be shipped out to New France and put to work on the lands; that five hundred of them, between the ages of fifteen and forty, be sent as a first instalment; and that the "farmers of the revenue" be made to bear the cost of transporting them to Quebec and of establishing them in the colony. The salt-smugglers were to be bound to service for a term of three years, and at the end of this time were to be allowed the privileges of free citizens in Canada, without, however, having the right to return to France. Assurance was further given by the governor that, owing to the dearth of farm labour in Canada, the owners of lands would welcome this addition to the colonial population. Vaudreuil's proposals, however, do not seem to have found favour with the French authorities; for the colony was left, at least for the time being, to depend for its growth upon its natural increase from within, supplemented by such immigration of free settlers as might be induced to come from France.

About the same time, in 1717, the intendant Bégon drew

[1] Royal Instructions to Messieurs de Vaudreuil and Bégon concerning the Decision of the French Authorities to Grant no more Seigniories in Canada, May 23, 1719, *printed below*, pp. 160–162.

[2] Despatch of Governor Vaudreuil to His Royal Highness the Duc d'Orléans, Regent of France, asking that Salt-smugglers be sent to Canada to work the Lands, February, 1716, *printed below*, pp. 151–153.

the attention of the minister of marine to various grievances of the colonial peasantry, upon whom many of the seigniors, despite the provisions of the Arrêts of Marly, apparently continued to make unreasonable demands. Some proprietors, according to Bégon, were exacting corvée or forced labour from their habitants, claiming it as a compensation for the use of the seigniorial domain as pasturage. Others had induced their dependants to help in clearing lands upon the assurance that these tracts might be used for pasturage by all in common, but had subsequently been unable to resist the temptation to sell the land for cultivation. Some seigniors were still enforcing the *droit de retrait roturier*, an exaction for which the Custom of Paris gave no warrant; others were reserving the wood on granted lands, and thus preventing the development of a trade in timber with France or with the West Indies; and some were exacting other rights in a manner which gave the intendant further ground for criticism.

To all of these complaints the home authorities made the usual answer that the existing laws ought to be better enforced; and this admonition they followed up, a few years later, with explicit instructions that the provisions of the Arrêts of Marly should be carried out to the letter.[1] To satisfy himself that this injunction was being complied with, the minister asked for regular statements showing how much land was being cleared; and in order to prepare these statements satisfactorily and accurately, the intendant called upon the seigniors to file their *aveux et dénombrements*. These documents were supposed to contain full information concerning the amount of land in each seigniory, the amount that had been subgranted, the acreage that had been cleared, the number of habitants residing in the seigniory and the terms upon which lands had been granted to each, the number of buildings in the seigniory, and various data re-

[1] Royal Instructions concerning the Enforcement of the Arrêts of Marly, December 19, 1721, *printed below*, pp. 166–167.

garding the amount of crops produced, the number of horses and horned cattle maintained, and much other information of a like nature.[1] With these statements as a basis, a *papier terrier*, or census, of the colony could be compiled at any time; but some of the seigniors were negligent in filing their returns,—a fault, particularly on the part of the religious orders, which was made a matter of frequent complaint by the colonial authorities.

The various measures taken with a view to hastening the clearing of lands were evidently attended with some degree of success, for during the period 1720–1730 the cleared area more than doubled. Under the spur of rigorous ministerial instructions, lands were promptly taken away by official decree when sufficient energy was not shown by their holders. Forfeitures of seigniories were not frequent; but hundreds of *en censive* grants were revoked, and the general situation was so much improved that by 1727 the royal authorities yielded a point and permitted one new seigniory to be given. Four years later, in 1731, the governor and intendant were again empowered to make grants whenever they deemed such action expedient; and from this time forward seigniorial concessions were made somewhat freely.

It is not to be supposed, however, that the change in royal policy was dictated by any assurance that all the abuses of the seigniorial system had been remedied; on the contrary, the colonial authorities were at this very moment reiterating their protests against the avaricious practices of the seigniors. In a joint despatch of October 10, 1730, Beauharnois and Hocquart drew the attention of the minister to the ways in which the seigniors managed to evade the law.[2] The practice

[1] Despatch of Messieurs de Vaudreuil and Bégon concerning the Nature and Scope of the Aveux et Dénombrements, October 14, 1723, *printed below*, pp. 167–168.

[2] Despatch of Messieurs de Beauharnois and Hocquart to the Minister with reference to the Reappearance of Seigniorial Abuses, October 10, 1730, *printed below*, pp. 169–172.

of land speculation had not been eliminated, they said; for the habitants as well as the seigniors had become interested in it to the neglect of their proper vocations. Since, however, it was the seigniors who encouraged their dependants to the practice, —for the oftener the lands changed owners the oftener did the seigniors obtain their *lods et ventes*, or alienation fines,—the colonial officials suggested that it would be wise to "issue a decree prohibiting seigniors and all other proprietors from selling unimproved lands under any pretext whatever." It was true, indeed, that the arrêts of 1711 were designed to prevent this speculation; but, as the writers of the despatch pointed out, the terms of these decrees were evaded in various ways. Many habitants, they said, had paid for their lands sums which they were under no legal obligation to pay, and, when they discovered their folly, clamoured so loudly for the recovery of their money that a torrent of lawsuits would inevitably have been the outcome had not the intendant insisted that people were supposed to know their rights under the law and hence had only themselves to blame if they failed to insist upon them. *Volenti non fit injuria*, declared the intendant, was a sound maxim which ought not to be ruthlessly disregarded.

The spirit of speculation, it was suggested, doubtless had its basis in the plain fact that, all the better locations in the colony having been taken up, the margin of cultivation was being pushed out into regions less attractive. When the land along the river front had been cleared, the wild lands farther back had been much resorted to for supplies of timber and wood. Hence there had grown up, as the officials pointed out, an increasing demand for tracts in the "third and fourth ranges,"—that is, in the regions some distance back from the water front. These lands, formerly without any monetary value at all, could now, they said, be disposed of profitably if the seigniors were permitted to consult only their own private interests. The authorities, however, contended that

such lands were not the patrimony of the seignior, to be sold or held for a further rise in value as he might deem fit, but that they were simply held in trust by him for settlers or for others who might make bona-fide applications for lands as homesteads. This was undoubtedly the royal view of the matter as set forth in the Arrêts of Marly; but, as the colonial officials asserted, the "mass of the habitants were not aware of the provisions of the decrees," although the arrêts had been duly promulgated at the accustomed times and places. That the people should have remained for twenty years so deficient in the knowledge of their rights, especially in a matter which so directly concerned them, is somewhat strange. The notaries, one might think, would have brought the law to their attention; but these officers seem to have been as ignorant as the class from which they were drawn. At any rate, the governor and intendant concluded their despatch with a request that a new and more stringent decree be issued dealing with the various abuses mentioned.

In response to this request, the royal authorities transmitted to the colony in 1732 the decree which is commonly known as the Arrêt of Versailles.[1] This edict, after reciting the fact that evasions of former ordinances had been brought to the king's attention, forbade the sale of uncleared lands, and made provision for the forfeiture to the crown, after two years, of all grants not then cleared. The governor and intendant of the colony duly acknowledged the receipt of the arrêt in the autumn of the same year, and reported that it had been published "in the towns and parishes of the country"; but they made no haste to enforce its provisions. The two years passed, scores of seigniories lay almost completely undeveloped, and yet no forfeitures were declared, though meantime the lands of habitants who did not conform to the law were in many cases re-annexed to the domains of

[1] Royal Arrêt ordering Seigniors to Cultivate their Lands and forbidding the Sale of Uncleared Lands, March 15, 1732, *printed below*, pp. 174–176.

their seigniors. On one occasion the officials announced to the home authorities that, under the terms of the royal decrees, they had permitted seigniors to re-enter and take possession of more than four hundred farms; but in the ten years following the issue of the Arrêt of Versailles not a single seigniory seems to have been declared forfeited to the crown. Any movement in this direction appears to have been held in check for the time being by the dominating influence of seigniorial interests in the Superior Council of the colony. In fact, it was not till 1741, when the demands of the minister became too insistent to be longer compromised, that the colonial authorities finally bestirred themselves to action and declared the forfeiture of twenty seigniories in which little or no progress had been made.[1]

This stroke would doubtless have been more effective than it was, had not the governor and intendant restored several of these forfeited seigniories to their former owners by new grants.[2] As it was, the lesson was soon lost; and a further decree, issued by the king in 1743, seems to have fared no better than its predecessors as regarded its strict enforcement.[3] It is to be remembered, however, that during the last twenty years of French rule in Canada it was hardly possible to insist too rigorously upon any stated progress in the matter of clearing lands. This was an epoch of storm and stress in New France, when it was necessary to bend every effort to the task of keeping the colony out of English hands. During these two decades the number of incoming settlers was small, and the drafting of thousands of the population into active military service caused a great scarcity of agricultural labour. In these years the seigniorial system even failed to hold its own. Although a few additional seigniories were granted, there was little clearing or cultivation of new lands;

[1] *Édits et Ordonnances*, II. 555–561.
[2] See, for example, *Titres des Seigneuries*, 204.
[3] *Édits et Ordonnances*, I. 572–574.

on the contrary, many cleared holdings were abandoned or were left for years without proper attention, the cultivators finding themselves pressed into service at arms for the king. At intervals, whenever the military horizon brightened, men were allowed short furloughs that they might go home and accomplish what they could on their farms. On more than one occasion, indeed, the defensive strength of the colony was seriously weakened by the fact that militiamen were allowed to return to their homes for brief periods during the vital seasons of seedtime and harvest,—an expedient that was almost absolutely necessary, for the British command of the seas rendered New France dependent for her subsistence almost wholly upon her own resources.

Although seigniorial concessions had been made for a century or more, it was not till 1743 that the procedure to be followed in granting or revoking lands was definitely laid down. Prior to 1627 grants had been made in the name of the titular viceroy and lieutenant-general of New France, from 1627 to 1663 by the agents of the Company of One Hundred Associates, from 1664 to 1666 by the Company of the West Indies, from 1666 to 1674 by the intendant alone, and from 1674 to 1760 by the governor and intendant jointly; but not till 1743 had any of these authorities received definite instructions as to their exact course of action. In this year, however, the point was covered by a royal decree, which, after declaring the evils resulting from a lack of uniformity in the making of seigniorial grants, proceeded to define precisely the methods to be pursued.[1] Grants were to be made, as heretofore, by the governor and intendant jointly, or, during the absence or disability of either of these officials, by the officer temporarily performing the duties of governor or intendant. Revocations of grants were to be decreed by the same authorities; but when a difference of opinion should arise between

[1] Royal Arrêt concerning Concessions and Revocations of Lands in the Colonies, July 17, 1743, *printed below*, pp. 188–192.

the two the senior available member of the Superior Council was to be summoned as arbiter. All title-deeds not signed by both officials were to be declared void. The decree likewise confirmed to the governor and intendant their exclusive jurisdiction in all contestations arising in regard to the validity of land titles or the location of land boundaries, but declared that disputes connected with the division of lands among heirs were to continue within the jurisdiction of the regular royal courts. The authorities were cautioned not to grant lands which had already been allotted, or to regrant forfeited seigniories before the decree of forfeiture had been duly promulgated. In all cases relating to the interpretation of seigniorial rights an appeal to the Council of State in France was to be permitted.

The provisions of this decree did not essentially change any important feature of the existing land-tenure system. It had been the practice, when the governor and intendant failed to agree, to refer the matter to the king; but this course had caused inconvenient delay, which was now to be remedied by the plan of calling in a member of the Council. In no case was a grant to be considered final until ratified by the crown; but this ratification was only a formality. Reports of titles issued were sent home from time to time, and in due course *brevets de ratification* were received, a batch of titles being usually confirmed in a single royal decree. Sometimes the king, in ratifying grants, took occasion to insert some new condition, usually designed to expedite the clearing of the granted tract; more often, however, he confirmed the titles without comment. Persons to whom seigniorial lands had been given did not usually wait for the royal ratification, but began at once their work of development, rendering their fealty and homage and filing their *aveux* without delay. No initial payment was exacted, even the title-deed apparently being issued without any fee; indeed, no annual payment or service of any kind whatever

was exacted from seigniors by the crown. If a seigniory changed hands otherwise than by inheritance in direct succession, a fine of one-fifth of its value, commonly known as the quint, became due and payable to the royal treasury at Quebec. Invariably, however, the king remitted one-third of this payment; and occasionally the authorities sought and obtained a remission of the whole amount by bringing to the royal notice allegations of meritorious services on the part of the seignior concerned.[1] Owing to the comparative infrequency of land transfers other than by inheritance, and to the frequency of remissions either in whole or in part, the proceeds accruing to the royal treasury from this source were never very substantial.

But although the seignior was not subject to any important financial burdens he had several general obligations as liegeman of his sovereign. One of these was, of course, the duty of military service, the most characteristic incident of feudalism in its earlier days, and one which in Canada was revitalised and put in bold relief among the other features of seigniorialism. Again, since it was the royal desire that Canada should not only defend but nourish itself, the obligation of clearing and developing the seigniories was imposed upon those who held them, a requirement which the royal authorities insisted upon with emphasis and frequency. On no point, indeed, was the king more insistent than upon this, that the seigniors must regard themselves as active agents in colonial development: if they did not as a class fully appreciate this aspect of their position, it was not because His Majesty failed to make it clear. There were also several less important seigniorial obligations. Seigniors were required to reserve for use in the royal shipyards all oak and pine timber suitable for mastings, and to report to the autho-

[1] Despatch of Messieurs de Beauharnois and Hocquart to the Minister asking for a Remission of the Quint on behalf of Major Péan, September 30, 1736, *printed below*, pp. 177–178.

rities the discovery of any mineral deposits within the limits of their seigniories. If the government desired portions of their land for fortifications or other public use, they were under obligation to surrender the tracts without demanding compensation. These and similar requirements the seigniors for the most part respected, and compelled their dependants to respect.

Taken as a whole, the burdens imposed upon seigniors by the crown were easily borne. If the king erred at all it was on the side of liberality; but in view of colonial conditions the royal largesse was not without good reason, for the seigniors as a class were poor in worldly possessions. Far from being able to make substantial contributions to the royal exchequer, there were those among them who confessed their pitiable poverty by direct appeals to the king for alms. Most of the seigniors lived, not in Quebec, Montreal, or Three Rivers, but upon their own lands. Although a small number of non-residents are mentioned by Catalogne, prevailing absenteeism, the curse of seigniorialism in France, was not one of the evils with which the colonial authorities had seriously to contend. In New France it was not that the owners failed to live on their domains, but that they were not energetic enough in persuading others to bear them company. With the seignior living and working day by day on his property, sharing with his habitants the hardships and privations of pioneer life in a virgin land, there naturally sprang up between him and his dependants a spirit of *camaraderie* and mutual familiarity, which, if it did not altogether meet the official notion of proper class relationship, served at least to give Canadian feudalism a real vitality, and a source of strength that it had long since lost in France.

Those seigniors—and they formed quite the majority among their class—who did not seek to reap where they had not sown, cast about energetically for persons who would become their dependants. Some of them arranged by cor-

respondence with friends in France for the despatch of settlers; some made it their business to be in Quebec every springtime when the vessels arrived, in order that they might greet the newcomers with attractive propositions; others pursued the policy of letting settlers come to them, a plan which seems to have commended itself to more and more seigniors as choice locations became less available. In any case the applicant for lands arranged terms with the seignior, the nature of the bargain depending partly upon the attractiveness of the grant and partly upon the liberality of the seignior with whom he had to deal. In general, however, there was no very wide variation in the terms of agreement; but neither was there any such approach to uniformity as some have assumed. Indeed, it was not the royal design that all lands should be given on precisely the same terms. All that was expected of seigniors was that they should make reasonable demands, and not subject newcomers to extortion or locate them less advantageously than the older settlers of the colony.

An invariable requirement in deeds of lands given *en censive* was that the holders should pay a small annual due called the *cens et rentes*. This payment, amounting to a few sous (supplemented usually by some fowls or a small quantity of grain) for every arpent of frontage, became due in the autumn of each year, and was made to the seignior on St. Martin's Day at the seigniorial residence or manor-house. The occasion became a local fête, to which all the inhabitants of the seigniory came in calèche or cariole, the women to share in the general retail of neighbourhood gossip while the men turned in their tallages of corn and poultry. When the lands of a habitant changed hands, a money payment, the *lods et ventes*, amounting to one-twelfth of the mutation price, was payable to the seignior, who, if he thought this less than his proper due, claimed the right of buying in the land at the alleged price. This privilege was the *droit de retrait roturier*,

regarding which the officials on more than one occasion registered their complaints. Again, when the seignior erected a grist-mill, the habitants were required by the terms of their deeds to carry thither their grist to be ground, the seignior retaining one-fourteenth of it as his toll. There was much complaint that these mills made flour which was too coarse, that the millers employed by the seigniors were raw hands who did not know their business, and that they were sometimes dishonest in keeping more than their proper toll. Moreover, most of the mills were wind-mills, and hence so unreliable that the habitants, as they vigorously complained, sometimes had to wait days before the wind took on sufficient strength to turn the clumsy wheels. Still, the banal obligation, as it was called, was not in itself an important burden upon the people of the seigniories; nor was it in general, throughout the old régime, a source of profit to the seigniors, many of whom provided and maintained the mills at an actual loss, since the small number of settlers in a seigniory frequently did not provide custom enough to pay the miller's wages. To neither the obligation itself nor the rate of toll did the habitants, so far as can be ascertained, ever raise serious objection; their complaints were invariably connected with the crude fashion in which some of the mills were equipped and operated. It was only after the British conquest, when the seigniories became populous, that the obligation of mill banality became a source of large emolument to the seigniors and a distinct imposition upon the people. The other banal obligation, that of bearing bread to the seigniorial oven, needs no comment; for it was never exacted except perhaps in one or two isolated cases, and even of these we have no definite evidence.

Much emphasis has been laid upon the seigniorial exaction of corvée, or forced labour, which was in France among the most vexatious of all the lord's impositions. It is true that, in Canada, days of corvée were stipulated for in the title-deeds of

lands given to settlers, and that many seigniors, perhaps most of them, regularly exacted from their habitants some free labour each year upon their private domains; but it is also true that the number of days insisted upon was small—usually only three a year, and rarely more than six. By a decree of the intendant the seignior might exact only one day in seedtime, one day in haytime, and one day in harvest; if he had stipulated for more than these three days he might take them only during the seasons of ploughing. Furthermore, any habitant who wished to be relieved of his obligation might secure exemption by paying to the seignior forty sous per day in lieu of corvée. Usually the seignior employed this labour to secure the ploughing, sowing, and harvesting of his own private domain; less often, perhaps, he used it in clearing the "commons," or general pasture lands of the seigniory, or in repairing the manor-house, the mill, or the roads and bridges of the parish. This seigniorial corvée is not to be confused with the royal or king's corvée, which was exacted under the authority of the *grand voyer* from time to time, and employed on the fortifications or public highways. Neither form of forced labour was, under the old régime, regarded by the people as a heavy burden, and protests against the exaction were then extremely rare; but after the British conquest the seigniors seem to have increased, more or less generally, the number of days demanded, and this action roused vigorous resentment among the habitants.

In addition to the foregoing dues and services, the seigniors imposed upon their dependants certain reservations and prohibitions. Besides claiming all minerals found in the granted lands, most of the seigniorial proprietors reserved the right to take from them such timber, stone, firewood, and other materials as might be needed in the construction and maintenance of the manor-house, the mill, the church, or the presbytery. Some prohibited their dependants from trading with the Indians, from selling marketable timber, or from erecting

any sawmills or like utilities. Still others asserted their *droit de pêche*, or the right to one fish in every eleven caught by the habitants, a privilege often emphasised by writers as a typical incident of seigniorial pettiness, but never regarded by either seigniors or habitants as of any account. In the same category may be mentioned the seignior's *droit de chasse*, or privilege of hunting with hound and falcon over the cultivated farms of his people. In France no other seigniorial prerogative was more sincerely detested than this, and none with better reason; but in the colonies the hunting right was never exercised, for there, from the very nature of things, the seignior found abundant scope for his sporting proclivities elsewhere than in the ripening fields of his liegemen. Various other privileges of a minor nature the Canadian seignior sometimes claimed, but less frequently asserted,—the right, for example, to keep for exclusive service in the seigniory a seigniorial bull, boar, or ram, the sole right to maintain ferries over rivers, the right to tap the maple trees growing on the lands of habitants, and so on. A few other prerogatives, like the *droit de jambage*, or marital right, were claimed by some seigniors, but without much seriousness; indeed, outside the realm of so-termed "historical" fiction, there seems to be no shred of evidence to show that such claims ever passed the bounds of half-jocular threats.

If one surveys the seigniorial system in Canada as a whole and in a fair-minded spirit, one cannot escape from the conclusion that its pressure upon the masses of the people was never really onerous. The obligations of the habitant to his seignior were light, they were fixed with some degree of definiteness, and they were never exacted in a manner which could properly be deemed harsh or cruel. The crown, through its active agent the intendant, was ever on his side; and, as the documents printed in this volume show, its intervention on his behalf was alike frequent and vigorous. If this mediation was not always so effective as it was designed

to be, it was only because the royal arm lost some of its strength when extended over the three thousand miles which separated Quebec from Versailles. There is, indeed, no error more persistent, and at the same time less excusable, than that which regards the Norman habitant of the New World as having occupied, in the closing decades of the old régime, a position analogous to that of the French *censitaire*. Unlike the latter, the Canadian never became coarse, degraded, and dispirited; throughout the period of French dominion he retained his characteristic bonhomie, vivacity, and optimism of spirit. In this connection, the interesting pen portraiture which Hocquart sent to the minister in 1737, when the population of the colony numbered about 40,000, may be trusted as at least a tolerably faithful characterisation of the people in general.[1] As a race, he tells us, the early French-Canadians were physically strong, well set-up, with vigorous stamina,—a description which squares well with La Hontan's assertion of a half-century before that they were "vigorous, enterprising, and indefatigable." Pluming themselves on their courage, they were fond of honours and attentions and sensitive to slights or the lightest punishments. They were, it is true, vindictive in disposition, too fond of the wine flagon, and, as Hocquart cautiously remarks, "passed for not being truthful"; but then as now their attachment to the church of their fathers was unflinching, and their obedience to the laws of the land bore its testimony in the almost entire absence of malefactors. Though not slothful in business, they sought mainly to serve themselves, whom they esteemed as the salt of the earth,—a truculent conceit which was not, the intendant thought, a useful handmaid to industrial, commercial, or agricultural progress. Their enforced idleness in the long winter period was also, in his opinion, somewhat

[1] Memoir [of Hocquart] to the Minister, containing a Characterisation of the French-Canadian Population [November 8, 1737], *printed below*, pp. 185–188.

detrimental to industrious habits, especially since by nature they loved the chase and the roving life in general. Unlike the peasants of France, however, they were not vulgar and boorish in demeanour. Though naturally independent and self-assertive, they could, when placed upon their honour and dealt with fairly, be trusted to meet confidence with response. This independent spirit Hocquart, bred as he was in the strict school of French officialdom, readily regarded as the earmark of insubordination and consequently, as something to be rigidly repressed; whereas the truth was that, as the Jesuit Charlevoix had noted many years before, the Normans of the New World "breathed from their birth the air of liberty," and their natural temperament could not be readily warped into docility.

From various other contemporary writings, among them those of La Hontan, Bougainville, and the Swedish naturalist Peter Kalm, who made a tour of New France in the middle of the eighteenth century, one may get some rudimentary idea of life in the Canadian seigniories during the old dominion. The manor-house, which was of course the social centre of the district, was usually a spacious stone structure, one or at most two storeys in height, with only a few rooms, but all of these generous in size. The large living-room, with its great open fireplace, was the most characteristic feature; for here the seignior received his habitants when they came to do business, and here he held his seigniorial court for the trial of minor offenders. The furnishings of the manor-house were frequently brought from France, but in course of time some very serviceable furniture was manufactured in the colony. Comfort rather than display was the dominant note in the abode of the average seignior. The dwellings of the habitants, while perhaps less pretentious, were none the less commodious and convenient. Built of stone or rough-hewn timber, fitted with broad windows and doors, which were doubled in winter, they were

rambling structures, usually a single storey in height, with low attic bedrooms. The roofs projected well over the walls in broad eaves, and out of them small high-peaked dormer windows thrust themselves like the heads of turtles from the canopies of their shells. Within were two or three spacious rooms, with low ceilings supported by rough and unconcealed beams,—a living-room with its fireplace, a roomy kitchen with its huge bake-oven, and a single ground-floor chamber forming the ordinary divisions of the dwelling. At the rear of the house a rough lean-to structure furnished a storeroom for provisions and utensils, and near by were usually the barn and the stable, simple in construction, and almost always without timber floors. As all the houses were whitewashed on the outside, from the river the long row of white cottages strung along the shore presented a sharp contrast to the background of green hills beyond.

The rude comfort in which the habitants of New France lived seems to have distinctly impressed several visitors to the colony. One of these, the facetious La Hontan, remarked that "the boors of the manours," as he termed them, lived with greater comfort "than an infinity of the gentry in France";[1] and many years later the observant Swede, Peter Kalm, added his testimony to the general air of contentment which characterised the population of New France.[2] As there was plenty of fuel, the long severe winters seem to have caused little hardship. Warm cloth of drugget, or *étoffe*, was manufactured in the colony, and in this the people clothed themselves at small expense. Their daily fare, too, though simple, was nourishing and always adequate. Amusements and recreations they had in plenty, especially during the winter season; indeed, the spirit of gaiety, if not of frivolousness, which marked the regular life of the people gave the

[1] La Hontan, *New Voyages*, I. 35.

[2] Peter Kalm, *Travels into North America* (2 vols., London, 1772), II. 241–242. Kalm visited New France in 1749.

austere emissaries of the Church many serious misgivings. Then, as perhaps ever since, the French-Canadians took too little thought for the morrow; as Charlevoix remarked, they liked "to get the credit of their money, and scarcely anybody amused himself by hoarding it."[1] Very few of the habitants were opulent; too often, on the contrary, real poverty was hidden under an air of ease, which through long continuance had become sufficiently natural to mislead even the practised observer. Large families were the rule; for with laudable fidelity the Norman colonist obeyed the scriptural injunction to be fruitful and multiply. In the maintenance of his numerous progeny, therefore, the habitant often carried a burden much heavier than that represented by all his obligations to either the crown or the seignior.

In replenishing the earth, however, he was much less assiduous, and his methods of agriculture were slovenly and crude. Very aptly might Catalogne remark that, if the lands of France were cultivated like the lands of Canada, three-fourths of the people would starve. Fertilisation of the farms was rare, most of the land-owners contenting themselves with burning the stubble in the spring before the land went under the plough. Rotation of crops was all but unknown; indeed, in view of the peculiar configuration of the holdings, scientific rotation would have been difficult, if not impossible. A portion of the land, it is true, was permitted to lie fallow every two or three years; but as these fallow fields were so rarely ploughed that they grew weeds without restraint, the rest from cultivation was of little service. Kalm, in 1749, saw no drains in any of the farms which he visited, although, as he naïvely remarks, "they seemed to be needed in some places." Fences, too, were uncommon, save about the small kitchen gardens near the houses, a circumstance which led Catalogne to comment upon the damage done to the crops by cattle that were permitted to roam at large. The land

[1] F. X. Charlevoix, *Journal Historique* (Paris, 1744), 80.

was ploughed in ridges, with a breadth of two or three yards between the furrows; and the sowing was done entirely in the spring. Kalm found "white wheat most commonly in the fields"; but peas, oats, rye, and barley were also grown, and some habitants found it profitable to adopt from the Indians the cultivation of maize. Roots and vegetables chiefly cabbages, pumpkins, and melons, there were in plenty; some of the farms had small orchards; and many of the habitants gave special attention to the growing of flax and hemp. The meadows of the St. Lawrence valley were excellent, far superior, in Kalm's estimation, to those of the English colonies to the southward; they furnished fodder in such abundance, indeed, that the raising of horses and horned cattle became an important branch of colonial husbandry. Owing to the lack of adequate barn accommodation, the habitants stacked their hay in the meadows to be drawn in during the winter as occasion demanded, their conical stacks which dotted the shores of the St. Lawrence eliciting comment from various European visitors to the colony. Implements and methods of agriculture were both somewhat primitive; yet Kalm found many things in the farming system of New France which he deemed worthy of commending to the yeomen of Scandinavia. When one remembers the numerous and serious obstacles which lay in the path of agricultural development during the French régime,—the rigours of the climate, the insatiable demands of the fur-traffic upon the life-blood of the colony, the distractions of almost continual warfare with encircling foes both white and red, the cumulative burdens laid upon the husbandman by his family, his seignior, his church, and his sovereign,—when all these are taken into account, it is perhaps not a matter for surprise or cavil that the St. Lawrence valley had not, in the course of a single century, become a new Eden. Yet the traveller who passed along the river from Quebec to Montreal in the early autumn might see, as Kalm saw, field after field of

waving grain extending inward from the shores as far as the eye could reach, and broken only here and there by tracts of meadow and woodland. Over two hundred thousand arpents of land had been cleared, and this tract nourished a population of nearly fifty thousand souls. Agricultural progress had not, it is true, met the royal expectations; yet the colony, when the English came upon it, was far from being in a state of complete economic debility.

When the fleur-de-lis of the Bourbons fluttered down from the ramparts of Quebec on the 18th of September, 1759, the future of the Norman race in the New World was virtually committed to the hands of a new suzerain, and a new epoch in the history of Canadian seigniorialism was begun.[1] If there was any doubt on this point it was removed by the capitulation of Montreal a year later, an event which involved the entire withdrawal of French military and civil control from the Canadian colony. By the terms of this agreement there was to be no interference, by the new suzerain power, with any vested rights which had been acquired by either the seigniors or the habitants in the lands of the colony under the seigniorial system. All were to be maintained in the peaceable possession of their lands, whether held *en seigneurie* or *en roture*, and in the enjoyment of whatever rights had accrued to them as donors or as holders of the soil.[2] The maintenance of the feudal régime in Canada after the British conquest has by some critics been regarded as a cardinal error, and the provisions of the Quebec Act, which anchored the system some years later, have come in for their meed of censure; but if there was any error the wrong step was taken in 1760, and

[1] For a detailed account of the progress of the seigniorial system during the period intervening between the capitulation of 1759 and the Abolition Act of 1854, the reader may be referred to the editor's volume on *The Seigniorial System in Canada* (New York, 1907), chaps. xi.–xii.

[2] Extracts from the Articles of Capitulation of Montreal, September 8, 1760, *printed below*, pp. 193–194.

not later. The capitulation of Montreal was a conditional surrender. The terms pledged to the French by General Amherst were such as he was perhaps not compelled by the exigencies of the military situation to grant had he not felt so disposed; but, once granted, the new suzerains would have been false to the traditions of England had they not respected them to the letter. These terms pledged the maintenance of the seigniorial system of land tenure; for, by guaranteeing that landholders should suffer no deprivation of their *biens seigneuriaux*, they assured to all seigniors a continuance of their existing privileges.

Although the political destiny of Canada was virtually settled in 1760, the war dragged on in Europe until the conclusion of the Peace of Paris three years later. During this interval the colony was under a military administration, the three districts of Quebec, Three Rivers, and Montreal being each placed in charge of a military officer, with justice dispensed by special military courts. In accordance with the pledges given in the capitulation, these courts upheld the seigniors in the enforcement of their various feudal rights, and strove to settle all disputes concerning land tenures by reference to the jurisprudence of the old régime. In their interpretation of the old land laws, however, they were not always accurate; indeed, some of the decisions of the military courts show that the judges quite misunderstood the most elementary principles of feudal law, and that in many cases the seigniors used the opportunity to profit by the misunderstanding.[1] All this is not surprising, however; for the officers in charge of the military courts were sometimes ignorant not only of the laws of the country, but even of its language.

The new authorities had pledged themselves to maintain the seigniorial system; but they now went farther, and gave evidence of their design to extend it by making new seigniorial

[1] Decision of the Military Court in the Case of Le Duc *vs.* Hunaut, April 20, 1762, *printed below*, pp. 194–195.

concessions. In 1762 two new seigniories, both on the Lower St. Lawrence, were granted by General Murray, military governor of Quebec,—one of them, the seigniory of Malbaie (Murray Bay), to Captain John Nairne of the 78th Regiment,[1] the other, that of Mount Murray, to Lieutenant Malcolm Fraser, also of the regular forces. In drawing up the title-deeds Murray followed the general lines of the old French patents, except that he gave no judicial powers to the grantees; indeed, none of the older seigniors were permitted to maintain their seigniorial courts after the conquest, all cases now coming in the first instance before the military courts. That Murray's example in the matter of granting new seigniories was not followed by his successors, was no doubt due chiefly to the fact that Englishmen who sought grants of land in Canada preferred to receive them in free and common socage rather than as seigniories. With the exception of these two concessions, and of one or two others, no extension of the area held under seigniorial tenure was made after 1760.

The first care of the new suzerain authorities was to obtain such reliable information about the land-tenure system as might be of service to them in considering questions of future policy; and to this end they asked General Murray and others to send them reports on the general conduct of administration under the French. This request was complied with during 1762 by the transmission of documents which are of interest and importance as showing the general attitude of the new officials toward the old institutions and methods of the colonial population. Murray's report gave special attention to the seigniorial system, and disclosed the fact that during his short sojourn in the colony this institution had not impressed him very favourably;[2] but some of his views, it may

[1] Title-deed of the Seigniory of Murray Bay, granted to Captain John Nairne of the 78th Regiment, April 27, 1762, *printed below*, pp. 195–196.

[2] Report of General James Murray on the State of Canada under French Administration, June 5, 1762, *printed below*, pp. 196–205.

be added, underwent a decided change during the ensuing few years.[1] Meantime, however, these reports had their influence upon the home authorities, and were in part, no doubt, responsible for the issue, in 1763, of a code of instructions relative to future land grants. These instructions commanded that thenceforth all grants of land should be made in free and common socage, but that all lands granted under the old dispensation should remain subject to the rules of the ancient tenures. The new socage grants were to be of moderate area; for the home authorities recognised that great disadvantages had been incurred in the development of the colony through the exercise of undue royal generosity in the allotment of lands.[2]

Shortly before these instructions were issued, terms of peace had been concluded between the two mother countries; and among the provisions of the treaty was one which permitted French landholders in Canada to sell their estates freely, and, if they so desired, to go home to France, a permission of which many took advantage. To attempt to form any just estimate of the numbers or the nature of this hegira is to enter the realm of controversy, but unquestionably the exodus removed from the colony many of its leading seigniorial proprietors. English seigniors took their places; for those Englishmen who came to the colony in the years immediately following the conquest saw that the purchase of seigniories at sacrifice prices was an excellent method of investment, especially since most of the estates included large tracts of ungranted lands which, as the colony grew in population, would undoubtedly increase in value. The dues and services to which the seignior was entitled did not at that time, to be sure, yield a very substantial return; but this, as the new English arrivals were quick to see, was

[1] See *below*, p. 217.

[2] Instructions to Governor James Murray concerning the Granting of Lands in Canada, December 7, 1763, *printed below*, pp. 206–216.

only because most of the lands were but sparsely settled. Large emoluments, they knew, might be had from the seigniorial exactions in due time.

To the French habitants, however, the change of ownership was far from welcome. The new English seignior was to them the representative of a conquering alien race, who knew not their language, traditions, or laws. He was, moreover, one who had been nurtured in heresy, and might be counted upon to take no part in the religious interests of the seigniory. What was even more to be deplored from their point of view was the fact that he was more than likely to bring English settlers into the seigniory among his dependants, and thus to destroy its ancient racial and religious homogeneity. The situation in many seigniories was therefore extremely delicate, and there was need for the exercise of much forbearance, tact, and democracy on the part of the new seigniorial owners. These qualities, unfortunately, most of them did not possess; on the contrary, their aggressive insistence upon the letter of their seigniorial privileges, their disposition to regard their new purchases as investments, and consequently their ill-concealed desire to exact a little more from their tenants at every possible turn,—all this, together with their militant activities in the interests of the Anglican church, widened the natural gap which lay between them and their dependants. In many cases the old personal nexus passed away, and with its passing the chief prop of the seigniorial system was correspondingly weakened.

Matters were in no wise improved by the action of the British government in providing, during the course of 1763, that nothing but English law was to be administered by the civil courts of the colony, which were now replacing the military tribunals. Unfortunately, the English law of real property squared so ill with the conditions of tenure under which most of the colonial lands were held, that the English judges, in their attempts to apply its principles to cases that

came before them, found themselves hopelessly confounded. In 1766, therefore, it was arranged that land transactions should be dealt with by the courts in accordance with the rules of the old French law, in so far as this could be ascertained by the courts, but that in all other actions, civil or criminal, English law should continue to be applied. This arrangement, it is true, somewhat alleviated the legal situation; but it did not render conditions entirely satisfactory, for there were inherent difficulties connected with the attempt to administer the old system of land law by means of a new system of judicial machinery. In the first place, the judges were all Englishmen, and few of them could carry on the business of their courts without the constant assistance of interpreters. Moreover, even those among them who strove most earnestly to master the old legal method found the task bewildering; for the system rested upon a multitude of arrêts, ordinances, and decrees that were still in manuscript, unarranged, unindexed, and in a handwriting which even to-day frequently taxes the patience of the trained investigator. The first compilation of the old jurisprudence was not attempted for ten years after the coming of the English, and during this interval the courts were left to grope along as best they could.

The land law of the old régime was not customary law. It was based fundamentally upon the Custom of Paris; and this was a code, not of customary, but of statutory law, drawn up by expert jurists and enacted by sovereign authority. The original provisions of the Custom had, however, been ruthlessly amended by the mass of home and colonial decrees issued profusely throughout a whole century of royal government in New France,—a prodigious activity in legislation that had, by 1760, resulted in the accumulation of more than one hundred ponderous manuscript *registres*, which still repose in the archives at Quebec. As the accurate knowledge of the law upon any particular point involved a knowledge of what was contained in this chaotic compilation, it is little wonder

that the judges sought and found an easier path to knowledge by calling before them, from time to time, notaries and others who professed to be skilled in the laws of the old dominion. Since the customs of the country were so much easier to discover than the laws, the courts, too, often sought to find out what had been done in the past, and, having informed themselves, proceeded to give decision accordingly. When the points involved were so difficult that the judicial authorities could not come to any satisfactory conclusion as to the provisions of the old law, they resorted, for reliable information, to skilled jurists in France. In 1767, for example, they sought the opinion of "three eminent lawyers of Paris" as to the nature and scope of certain reservations and other conditions which had, under the old dispensation, been inserted in most of the title-deeds of seigniorial lands. A study of this opinion will of itself afford some idea as to the complexity of the problems which the new courts of the colony found themselves called upon to solve.[1]

Manifestly, in such circumstances the administration of the seigniorial system could not be the same under the new suzerains as under the old. It was entrusted to strange and not altogether sympathetic men, who, even with the best intentions, were sure to blunder badly. One curious but none the less persistent error made by the English judges was that which led them to force an analogy between the copyhold tenures of England and the *en censive* tenures of Quebec. The incidents in English copyhold tenure were determined fundamentally by the customs of the manor or the neighbourhood; and had not the French king, they argued, made express provision in a royal arrêt that *en censive* lands in New France should be granted subject to

[1] Opinions of Three Eminent Lawyers of Paris, prepared at the Request of the Canadian Authorities, as to the Legality of certain Clauses and Conditions commonly inserted in Titles to Seigniorial Lands, February 14, 1767, *printed below*, pp. 218–226.

the dues and services customary in the seigniory? Why should not the courts, therefore, in any case brought before them, discover what was the custom of the seigniory and adjudge accordingly? But between tenure in copyhold and tenure *en censive* there was one fundamental difference,—namely, that the copyholder held no formal title-deed, whereas the *censitaire* had a written document, signed by the seigniorial grantor, which stated explicitly the dues and services that the landholder was bound to render. By the terms of this title-deed the conditions of tenure *en censive* were determined in the first instance, provided always that these terms were not repugnant to the Custom of Paris and to the ordinances in force in the colony; only in rare cases, when no deed had been granted, did the custom of the seigniory have any bearing whatever upon the matter. The royal decrees did not prevent the making of any bargain which the parties to a transaction chose to conclude; they merely permitted the habitant to insist, if he so chose, that the terms imposed upon him in this initial arrangement should not be more onerous than those imposed upon his prospective neighbours. The English courts, on the contrary, insisted upon making local customs the test of seigniorial prerogatives, a practice which was in most cases greatly to the advantage of the seignior.

In one other important point the new system failed to perpetuate the old. Before the conquest the royal intendant, that factotum of French colonial administration, possessed a jurisdiction with reference to all land questions which was little less than prætorian. Time and again he had taken it upon himself to refuse enforcement of seigniorial claims which, while thoroughly legal, were deemed contrary to public policy; for neither law nor custom required him to permit the enforcement of exactions that might be regarded as oppressive or at variance with his own ideas as to the proper relations between seigniorial proprietors and their dependants. The intendant's

jurisdiction was therefore both judicial and administrative. Furthermore, as he exacted no fees for his intervention in any cause, his interposition might be had by the poorest habitant. Those students of the institutional history of New France who have not dipped beneath the surface have hastened to brand the intendants of the old régime as rare rascals, who divided their energies between quarrelling with the governors and peculating public funds. Yet of the eleven intendants who held office in the colony from first to last it would be hard to designate more than two whose combativeness or rascality was at all conspicuous. Judged by its achievements, the intendancy, as an institution, was the most efficient and the most flexible of all the organs of colonial government during the old dominion. It was the balance-wheel of the whole system of seigniorial relations; and the British authorities erred in failing to recognise that without some provision for the continuance of its administrative jurisdiction, the seigniorial system of land tenure would speedily become bereft of its ancient adjustment.

Under the new dispensation, then, the spirit of the old order of things was not maintained. The English courts had no discretion except to administer what they conceived to be the law; they had no authority to issue decrees dictated by the interests of public policy but repugnant to legal enactment, —a limitation in full consonance with the traditions of Anglo-Saxon government, which has in all ages clung steadfastly to the canon that where the reign of law ends tyranny begins. In order, therefore, that the colony might have a government of laws and not of men, the new suzerains established the new legal régime; and the wisdom of their action may well pass unquestioned. Its direct bearing upon the future of Canadian seigniorialism has, however, scarcely received due consideration. The changed condition of affairs naturally gave great advantage to the seigniors, especially since litigation was now so expensive that many habitants found themselves virtually

debarred from the protection of the courts. In 1794 the attorney-general of the province gave it as his opinion that, while the habitants had a perfect right to refuse to pay the increased dues demanded by the seigniors, the expensiveness of enforcing this right in the higher courts "deprives them," as he puts it, "of the possibility of obtaining justice, compels them to abandon their rights and to throw themselves upon the mercy of their seignior, who compromises the action and grants a new deed of concession upon his own terms."[1]

During the years 1763 to 1791 both home and colonial authorities busied themselves with the consideration of means by which the administration of the legal system in general and the law of real property in particular might be improved. One of the most active in the matter was Governor Carleton, who, besides securing a codification of the ancient laws so that they might be used by the courts intelligently, succeeded in obtaining from the British government the re-establishment of the whole fabric of French civil law, with permission to continue the practice of granting seigniories whenever applicants should demand them. Carleton showed not only sincere sympathy with those who desired to maintain and to foster the old system of land tenure, but also vigorous initiative in securing royal action to this end. His judgment on the subject, particularly in connection with the framing of the Quebec Act of 1774, which re-established the civil law and thereby anchored seigniorialism in Canada, has been frequently criticised; but, as has already been pointed out, the error involved in the retention of the seigniorial system, if error there was, dates from the pledges given in the capitulation of 1760 and not from the act of 1774. Indeed, had the British authorities in 1774 taken the step of entirely anglicising the laws and the tenure of the colony, they would have matched in Canada the administrative follies which they were

[1] Report of the Attorney-General, February 27, 1794, in *Titles and Documents relating to the Seigniorial Tenure*, I. 93–95.

contemporaneously displaying in some other parts of the realm. That the seigniorial system was not thus swept away at a moment which was of all times the most inopportune, but was left to perish ultimately at the hands of its own friends, without any requiem of violated pledges, was due not a little to Carleton's vigorous intervention. To him, as his published despatches amply attest,[1] the French-Canadians owed very much.

That the seigniorial system had undergone an important change in spirit even though its external forms had remained unaltered was shown when, in the course of the Revolutionary War, the continental forces invaded the colony. During the French period the call to arms had invariably met ready response from the seigniors, a word from whom was always sufficient to rally their dependants to the service of the king; indeed, the disposition of both classes to drop the sickle for the musket was, if anything, too ready at all times. When, however, fifteen years after the English government had assumed charge of the colony, its representatives deemed it urgently necessary to issue a similar call, the response was of a very different nature. The seigniors, many of whom were English, obeyed the summons cheerfully, but the habitants as a whole remained sullen and aloof. Seigniorial threats that their lands would be forfeited as the penalty of their recalcitrancy availed little; and a few seigniors who insisted with more vigour than tact upon their right to enforce the obligation of military service were handled with ominous roughness by their habitants. Undoubtedly, the opposition

[1] Despatch of Governor Carleton to the Earl of Shelburne regarding the Administration of English Law in Canada, December 24, 1767, *printed below*, pp. 227–231 (accompanying draft of an ordinance, pp. 232–235); Despatch of Governor Carleton to the Secretary of State, giving a short Outline of the Seigniorial System, April 12, 1768, *below*, pp. 235–238; Report of the Council for Trade to the King, recommending the Issue of new Instructions in regard to the Granting of Land in Canada, April 24, 1771, *below*, pp. 238–239; Royal Instructions to Governor Carleton permitting the Governor-in-Council to make further Grants of Land under the Seigniorial Tenure, July 2, 1771, pp. 240–241.

with which the people met the call has been exaggerated by some of the contemporary writers who refer to the matter; but, with all due allowance for any over-statement, the fact remains that the seigniorial system, as tested at this time, showed none of that effectiveness as a means of augmenting colonial military strength which it had displayed again and again under the old régime.[1]

As the eighteenth century drew to its close the growing weakness of the old land-tenure system became more and more apparent. The influx of loyalists greatly augmented the number of socage landholders; and little by little the impression gained ground, even among the French themselves, that the English tenure was quite the more advantageous. Applications began to come to the authorities praying that the tenures of certain lands might be converted from the old to the new; and in connection with these requests the whole question as to the future of seigniorialism came to engage the earnest attention of the government. To this renewed interest in the relation of tenures to future colonial development, the lengthy report of the solicitor-general of Quebec, presented in 1790, bears testimony. In this report the whole history of the system was reviewed, its various incidents were analysed with care and tolerable accuracy, and the possibility of a conversion of tenures was discussed.[2] About the same time one of the leading seigniors of the colony, Charles de Lanaudière, presented a similar report;[3] and the Legislative Council of the colony, acting upon the information thus laid before it, adopted a series of resolutions in the course of which it declared that the seigniorial system had been a leading cause

[1] A Contemporary Account of the Disorders connected with the Attempt to enforce the Feudal Obligation of Military Service in the Province of Quebec during the American Invasion of 1775, *printed below*, pp. 241–246.

[2] Report of the Solicitor-General upon various Questions relating to the Seigniorial System, October 5, 1790, *below*, pp. 250–267.

[3] Answers submitted by Charles de Lanaudière to various Questions relating to the Seigniorial System, October 11, 1790, *below*, pp. 267–273.

of tardy colonial progress, that it would in all probability operate more detrimentally in the future than in the past, and that, although compulsory conversion of tenures would be inexpedient, favourable consideration and encouragement ought to be given to those seigniors who voluntarily applied for such changes.[1] From this general view one of the councillors, Mr. Adam Mabane, expressed a vigorous dissent, mainly on the ground that the conversion of tenures would give the seigniors full property in their ungranted lands, a right which they did not legally enjoy under existing conditions.[2]

The proposals of the Council looking toward the conversion of tenures by voluntary process met an unexpected check in the following year, when the Constitutional Act made provision for the division of the colony into the two provinces of Upper and Lower Canada. One of the provisions of this act required that, whenever a grant of lands was made in Lower Canada (or Quebec), an area equal to one-seventh of the granted tract should be set aside for the support of a Protestant clergy, a measure which resulted in the creation of what came to be known as the Clergy Reserves.[3] Presently, therefore, the colonial authorities, in maturing their projects for permitting seigniors to surrender their lands to the crown and receive them back under new grants in socage, encountered the question whether, in such cases, the regrants would rank as grants *de novo*, and hence become subject to the Clergy-Reserves proviso. For many years this point proved a stumbling-block; but, as applications for changes in tenure were seldom made, it was not until 1817 that the government sought and obtained from the law officers of the crown in

[1] Resolutions of the Council relating to the Seigniorial System, October 11, 1790, *printed below*, pp. 273–279.

[2] Reasons submitted by Mr. Adam Mabane, Member of the Council, in support of his Dissent from the Resolutions adopted by the Council, October 15, 1790, *below*, pp. 279–281.

[3] Extracts from the Constitutional Act of 1791, *below*, pp. 281–284.

England an opinion as to whether Clergy Reserves would have to be retained out of lands regranted under the new tenure. This opinion was to the effect that such reservations must be made, and hence that the seignior who surrendered his lands would receive back in free and common socage only six-sevenths of the area.[1] As this fact would obviously prevent applications for commutations of tenure, the Canadian authorities requested that imperial legislation might be enacted to remove the obstacle, and at the same time to clear up several other matters that stood in the way of seigniors who desired a change in the method of holding their lands.

This request met response in the Canada Trade Act of 1822, which, after dealing with several other matters, simplified the procedure whereby a change of tenure might be effected.[2] Seigniors, it provided, might surrender their holdings to the crown and receive back in socage the whole areas, subject, however, to the payment of such sums to His Majesty as would have been due under the old tenure. Those who held *en censive* lands directly from the crown were to have the same privilege; but, as the act made no provision whereby the habitants might arrange with their seigniors for a commutation of their tenures, further legislation, embodied in the Canada Trade and Tenures Act of 1825, was obtained to cover this point. This new statute provided that seigniors who made arrangements with the crown for a conversion of tenure should be bound to afford to their habitants the opportunity to secure a like commutation of their holdings.[3]

All this legislation, however, availed but little. Although many seigniors desired to make advantageous terms with the

[1] Opinion of the Law Officers of the Crown with reference to certain Difficulties encountered by the Colonial Authorities in carrying out the Arrangements for the Voluntary Commutation of Seigniorial Lands, August 1, 1817, *printed below*, pp. 288–290.

[2] Extracts from the Canada Trade Act of 1822, *below*, pp. 290–292.

[3] Extracts from the Canada Trade and Tenures Act of 1825, *below*, pp. 292–299.

crown, they did not find its proposals attractive if they were to be bound, in return, to make the same generous terms with their dependants. Moreover, as still another drawback, instructions were transmitted to the governor requiring that the commutation of the tenure of seigniories be arranged upon a five per cent basis,—that is, the seignior was to pay to the crown, in commutation of all its feudal claims, five per cent of the seigniory's market value.[1] When, however, the governor pointed out in reply that it would be unwise to put all seigniorial lands upon the same basis, the instructions were so altered as to permit the exaction of a higher percentage in the case of urban as distinguished from rural holdings. Moreover, as it was now the avowed design of the authorities to encourage changes in tenure, the governor was further commanded to make no more *en censive* grants within the limits of those seigniories which had come into the possession of the crown. The facilities thus afforded to the seigniors were in due time set forth in a proclamation by the governor;[2] but few came forward to ask for a change of tenure, and in the next decade the provisions of the acts were applied in not more than a half a dozen cases altogether. From time to time thereafter the Legislative Assembly of Lower Canada took the whole matter of seigniorial abolition into its consideration, but with no substantial results; and, when the rebellion of 1837–38 began, the question was no nearer its solution than before.

When, however, the last embers of the revolt had been extinguished, and the union of the two provinces into a single colony had been accomplished, the first parliament of Canada gave the question of abolishing the seigniorial system

[1] Correspondence between Earl Bathurst and Governor Dalhousie with reference to the Carrying into Effect of the Canada Trade and Tenures Act, August, 1825, to October, 1826, *printed below*, pp. 299–304.

[2] Proclamation of Governor Dalhousie making Regulations for the Voluntary Commutation of Lands held under the Seigniorial Tenure, April 14, 1826, *below*, pp. 304–308.

its earnest attention, by appointing a commission of three to make a thorough investigation of its workings, and to propose some practical scheme of compulsory commutation of tenures which would be satisfactory to seigniors and habitants alike. This task the commissioners promptly accomplished, and in 1843 presented the results to parliament in an elaborate report containing much interesting and important information relating to the subject with which it dealt.[1] This paper may be commended to readers as affording the most comprehensive and trustworthy outline of the seigniorial system to be found in any official document prior to 1854. It contains some few inaccuracies, and in some cases the attitude of the commissioners toward various incidents of the system is not without obvious bias; but on the whole it is an able and illuminating state paper, and must have been a notable contribution to contemporary discussions of the subject. The commissioners reached the general conclusion that the seigniorial system had outlived its usefulness, that its continuance was productive of many abuses and anomalies, and that it operated as a paralysing influence upon the agricultural progress of the country. The facts set forth in support of their conclusion gave abundant evidence that, in the opinion of the people at large, the system had under British administration reached a plane very different from that which it had occupied in the days before the coming of the conquerors. The dues and services exacted by the seigniors from their dependants had been increased all along the line; seigniorial reservations and restrictions had become more rigid; and in many cases simple prerogatives of a purely honorary nature had been turned into agencies of emolument. The relations between the Canadian seignior and his dependants toward the middle of the nineteenth century appear, in short,

[1] Report of the Commissioners appointed to Inquire into the State of the Laws and other Circumstances connected with the Seigniorial Tenure, as it obtains in that part of the Province of Canada heretofore Lower Canada, March 29, 1843, *printed below*, pp. 308–357.

to have become as deficient in cordiality as are the contemporary relations between the average English landlord and his Irish peasantry. The habitants yielded their annual payments grudgingly and with ill grace; and the few days of corvée labour which under the old régime they gave without a murmur they now looked upon as constituting a badge of servitude. Popular opinion was, as the report shows, running strongly against the continuance of the system, the very element which had in 1774 constituted its firm friends now assuming an attitude of irreconcilable opposition.

The commissioners of 1843 laid before the Assembly three different proposals looking to the entire abolition of seigniorialism; and one of these found favour. In accordance with this recommendation, two statutes passed during the next few years sought to make possible the conversion of tenures within seigniories, even though the seigniors might not see fit to commute the tenures of their own holdings by arrangements with the crown. By the terms of this legislation a seignior was not bound to grant applications for commutation on the part of his dependants, but he was permitted to do so whenever satisfactory terms with the parties could be arranged. In many cases such terms were made; but, since the amount to be paid by the habitant to his seignior in lieu of all seigniorial claims obviously depended on the nature and extent of the latter, and since there was considerable difference of opinion as to what claims were valid and what were not, the process of conversion did not make much headway. As time went by, therefore, members of the Assembly came to feel that nothing short of a scheme of commutation which should be compulsory as regarded both parties would ever promise a final disposition of the whole question. Accordingly, in the spring of 1851 a committee of the House was appointed to draft such a measure; but, as the legislation which it outlined was not regarded as satisfactory, action was postponed until the year following, when a new ministry came into office.

This new administration introduced a measure of its own framed along the same lines as the previous one; but, although the bill passed the Assembly, it was defeated in the Legislative Council, or upper house of the colonial legislature.

The general elections of 1854 brought the question of abolishing the old-tenure system prominently before the people, who gave their verdict in no uncertain tone by installing in power a ministry openly pledged to the cause of abolition. One of the first administrative acts of this new government was to lay before the legislature a comprehensive plan designed to carry out the popular mandate,—a measure which, like its predecessors, encountered much opposition both within and without the legislative halls, but which finally passed both houses and received the viceregal assent.[1] This act of 1854 is a long and comprehensive statute, containing a large number of detailed provisions intended to cover any contingencies which might arise, but providing in general that the tenures of all lands held *en seigneurie* or *en censive* should be forthwith commuted to tenure *en franc aleu roturier*, which was the French equivalent of the English tenure in free and common socage, or freehold. For this conversion the seigniors were to pay nothing to the crown; but the sums that would ordinarily have been exacted for such concessions they were to apply to the reduction of the dues thereafter to be required from their dependants. The habitants, on their part, were to pay to the seignior, in commutation of all his privileges and claims, either a lump sum or an annual quit-rent at their option, the exact sum to be fixed, in the case of each farm, by commissioners whose appointment was provided for by the statute and who were to be guided by rules prescribed by it. Naturally, the sum was to be determined with reference to the amount of dues and services which the seignior had been legally exacting in each case.

[1] An Act for the Abolition of Feudal Rights and Duties in Lower Canada, December 18, 1854 (18 Victoria, c. 3).

The authorities did not venture upon the difficult task of deciding what seigniorial exactions were legal and what were not, nor did they leave this question to the judgment of the commissioners. On the contrary, they adopted the very judicious plan of constituting a special court made up of judges drawn from the regular higher tribunals of the colony, and committing to this body the determination as to what seigniorial exactions ought to be considered by the commissioners in estimating the precise terms of commutation. This court performed its important and difficult task with the utmost credit, its work contributing greatly to the comparative smoothness with which the provisions of the act of 1854 were carried into operation. As the fixing of the terms by the commissioners took considerable time, it was not until some years after 1854 that the change of tenure had been completely effected. Sundry unforeseen difficulties arose here and there, and some supplementary legislation was necessary; but on the whole the change was accomplished with as much expedition and as little injustice to any private interests as the peculiar circumstances seem to have permitted.

By many of the seigniors the arrangements made by the act of 1854 were regarded as unfair to them; indeed, during the years preceding the adoption of the statute the whole project of abolition had been vigorously opposed by many of them, on grounds, too, that carry the air of plausibility.[1] By some the arrangements were denounced as involving a partial confiscation of seigniorial property without adequate compensation; and it is probably true that, as investments, most of the seigniories were worth less after the passage of the act than they were before. Others complained that, since the vast majority of the habitants chose to pay an annual quit-rent rather than a lump sum in commutation of their various

[1] Memorandum of Peter Burnet, Esquire, protesting against the proposed Method of Commuting the Seigniorial Tenure, April, 1852, *printed below*, pp. 357–366.

dues, the total sums realised by the seigniors were almost invariably less than the old seigniorial revenues. Even to the present day, indeed, comparatively few of the smaller landholders in the province of Quebec have exercised their privilege of entirely redeeming their farms from all future payments; most of them continue to pay their annual *rente constituée*, as fixed by the commissioners a half-century ago. Those to whom the payments go are still popularly called seigniors, but since 1854 this title has had no legal recognition. The relation between the parties is now virtually that of landlord and tenant, with the provision, however, that the habitant, his heirs, or assigns, shall be secure in the tenure of the land so long as the annual fixed rental is promptly paid. The rules in regard to succession to real property, conveyancing, and the other incidents of landholding still follow the old canons of possession *en franc aleu roturier*, the allodial tenure of the Middle Ages.

The twilight of European feudalism was more prolonged in French Canada than in any other country, a prolongation which in many respects proved a public evil. During the century following the English conquest the political, social, and economic environment in the colony underwent a thorough change; but the seigniorial system had become so stereotyped that it adjusted itself very ineffectually to the new order of things. Its abolition in 1854 was, therefore, the part of wisdom. This is not to say, however, that its transplantation from France to Canada two centuries previously was an administrative error, or that during the two succeeding centuries it did not serve a useful purpose in the general economy of the colony. So long as the environment was favourable, so long as the administration was sympathetic, and so long as defence was accounted a more immediate goal than opulence, seigniorialism played a useful and even a notable rôle in moulding the destinies of New France. It gave to the colony much of its vigour in arms and much of

its characteristic aggressiveness, furnishing at the same time a scheme of civil organisation which was neither ignoble nor oppressive. It did little, however, to expand the human faculties of initiative and enterprise in the arts of peace. In this sphere its influence was either wholly negative or, worse still, actually depressing. Although not all the industrial stagnation which characterised New France from first to last may properly be laid at its door, the institution was unquestionably part and parcel of the general scheme of stifling paternalism which held the colony in its economic tutelage, and it must therefore be debited with its share in the general outcome. The seigniorial system, in a word, helped to make New France homogeneous, loyal to her church and her sovereign, and helped to give her a defensive strength quite out of proportion to her population and resources. On the other hand, it retarded the march of the colony to material prosperity, hindered the development of moral and intellectual independence, and interposed a formidable barrier to the institutions of free government.

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PART I

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Édits et Ordonnances, III. 7–10.

Henry, par la grâce de Dieu, roi de France et de Navarre, à tous ceux qui ces présentes lettres verront, salut. . . .

Savoir faisons que pour la bonne et entière confiance que nous avons de la personne de notre amé et féal Troillus des Mesgoüets . . . le sieur de la Roche, . . . et de ses louables vertus, qualités et mérites, aussi de l'entière affection qu'il

[1] Troillus du Mesgoüets, Sieur de la Roche (sometimes spelled Troilus de Mesgouez), was a gentleman of Brittany who had at one time been an attendant at the court of Queen Catherine de Médicis. His influence at the royal court had secured him the position of governor of Morlaix, and in 1578 he was commissioned lieutenant-general and viceroy of all the territories claimed by France in the New World. The viceroy did not, however, set forth for his new sphere of service until 1584, when he started for Newfoundland with a following of three hundred prospective colonists. Almost at the outset of his voyage, however, his largest vessel was wrecked near Brouage, and hence his plans were, for the time being, abandoned. The commission here given is, therefore, the second that was issued to the Sieur de la Roche. Further details concerning the Breton nobleman and his voyages may be found in Richard Hakluyt's *Discourse on Westerne Planting*, in Maine Historical Society, *Collections*, 2nd Series, II. 26, and in H. P. Biggar's *Early Trading Companies of New France* (Toronto, 1901), chap. iii.

a au bien de notre service et avancement de nos affaires: icelui, pour ces causes et autres à ce nous mouvant, nous avons, conformément à la volonté du feu roi dernier décédé, notre très-honoré sieur et frère, qui jà avoit fait élection de sa personne pour l'exécution de la dite entreprise, icelui fait, faisons, créons, ordonnons et établissons par ces présentes signées de notre main, notre lieutenant-général ès dits pays de Canada, Hochelaga, Terre-neuve, Labrador, rivière de la Grande Baye de Norembègue et terres adjacentes des dites provinces et rivières, lesquels étant de grande longueur et étendue de pays, sans icelles être habitées par sujets de nul prince chrétien; . . .

Et afin d'augmenter et accroître le bon vouloir, courage et affection de ceux qui serviront à l'exécution et expédition de la dite entreprise et même de ceux qui demeureront ès dites terres, nous lui avons donné pouvoir, d'icelles terres qu'il nous pourrait avoir acquises au dit voyage, faire bail, pour en jouir par ceux à qui elles seront affectées et leurs successeurs en tous droits de propriété, à savoir: aux gentilshommes et ceux qu'il jugera gens de mérite, en fiefs, seigneuries, châtellenies, comtés, vicomtés, baronnies et autres dignités relevant de nous,[1] telles qu'il jugera convenir à leurs services, à la charge qu'ils serviront à la tuition et défense des dits pays, et aux autres de moindre condition, à telles charges et redevances annuelles qu'il avisera, dont nous consentons qu'ils en demeurent quittes pour les six premières années, ou tel autre tems que notre dit lieutenant avisera bon être, et connoîtra leur être nécessaire, excepté toutefois du devoir et service pour la guerre.[2] . . .

[1] There is no evidence that Roche made any grants of land or issued any patents of nobility by virtue of the powers here given. See Benjamin Sulte on "L'ancienne noblesse du Canada," in *Revue Canadienne*, May, 1885.

[2] The clauses "à la charge qu'ils serviront à la tuition et défense des dits pays," and "excepté toutefois du devoir et service pour la guerre," are of significance as showing the distinctly military nature of the tenure which the king intended Roche to establish in New France. See also below, pp. 22–26.

. . . Et afin que notre dit lieutenant puisse plus facilement mettre ensemble le nombre de gens qui lui est nécessaire pour le dit voyage et entreprise, tant de l'un que de l'autre sexe, nous lui avons donné pouvoir de prendre, élire et choisir et lever telles personnes en notre dit royaume, pays, terre et seigneurie qu'il connoîtra être propres, utiles et nécessaires pour la dite entreprise qui conviendront avec lui aller, lesquels il fera conduire et acheminer des lieux où ils seront par lui levés, jusqu'au lieu de l'embarquement.[1] . . .

Donné à Paris, le douzième jour de janvier, l'an de grâce mil cinq cent quatre-vingt-dix-huit, et de notre règne le neuvième. HENRY.

No. 2. Extract from the Charter of the Company of One Hundred Associates, April 29, 1627.[2]

Isambert, *Recueil général des anciennes lois françaises*, XVI. 216–222 ; *Édits et Ordonnances*, I. 1–11.

I. C'est à savoir que les dits . . . associés promettront faire passer au dit pays de la Nouvelle France, deux à trois cens hommes de tous métiers dès l'année prochaine 1628, et pendant les années suivantes en augmenter le nombre jusqu'à quatre mille de l'un et de l'autre sexe, dans quinze ans prochainement venans, et qui finiront en décembre, que l'on

[1] As no voluntary colonists could be had, Roche later received permission to take from the gaols of Normandy and Brittany such number of prisoners as he wished to transport to his new dominions. See Henry Harrisse, *Notes pour servir à l'histoire de la Nouvelle-France* (Paris, 1872), 258 ff.

[2] On the organisation and operations of the Company of One Hundred Associates, or Company of New France, many details may be found in Henri Pigeonneau's *Histoire du commerce de la France* (2 vols., Paris, 1887–1889), II. chap. iii.; Pierre Bonnassieux's *Les grandes compagnies de commerce* (Paris, 1892), 350–353 ; and Biggar's *Early Trading Companies of New France*, chap. viii. The names of the hundred associates are printed in Benjamin Sulte's *Histoire des Canadiens-Français* (8 vols., Montreal, 1882–1884), II. 31–33.

comptera 1643; les y loger, nourrir et entretenir de toutes choses généralement quelconques, nécessaires à la vie pendant trois ans seulement, lesquels expirés, les dits associés seront déchargés, si bon leur semble, de leur nourriture et entretènement, en leur assignant la quantité de terres défrichées, suffisantes pour leur subvenir, avec le blé nécessaire pour les ensemencer la première fois, et pour vivre jusqu'à la récolte lors prochaine, ou autrement leur pourvoir en telle sorte qu'ils puissent de leur industrie et travail subsister au dit pays, et s'y entretenir par eux-mêmes. . . .

V. Pourront les dits associés améliorer et aménager les dites terres, ainsi qu'ils verront être à faire, et icelles distribuer à ceux qui habiteront le dit pays et autres en telle quantité et ainsi qu'ils jugeront à propos; leur donner et attribuer tels titres et honneurs, droits, pouvoirs et facultés qu'ils jugeront être bons, besoin ou nécessaires, selon les qualités, conditions et mérites des personnes, et généralement à telles charges, réserves et conditions qu'ils verront bon être. Et néanmoins en cas d'érection de duchés, marquisats, comtés et baronnies, seront prises lettres de confirmation de Sa Majesté sur la présentation de mon dit seigneur grand-maître, chef et surintendant général de la navigation et commerce de France.

VI. Et afin que les dits associés puissent jouir pleinement et paisiblement de ce qui leur sera donné et accordé, Sa Majesté revoquera tous dons faits des dites terres, parts ou portions d'icelles.[1] . . .

Fait à Paris, ce vingt-neuf avril, mil six cent vingt-sept.

ARMAND, Cardinal de Richelieu,[2] &c. &c.

[1] Only three seigniorial grants had been made in New France prior to the date of the Company's charter. These were Sault au Matelot, near Quebec, to Louis Hébert in 1623, Cap Tourmente to Guillaume de Caën in 1624, and Notre Dame des Anges to the Jesuits in 1626. The titles are printed in *Titres des Seigneuries*, 53, 373.

[2] Armand-Jean du Plessis, Cardinal and Duc de Richelieu, was born in Paris in 1585. Although trained for the church, he entered the civil service of the king when he was about thirty years of age, and rose steadily until in 1624

No. 3. Extract from the By-laws and Regulations adopted by the Company of One Hundred Associates, May 7, 1627.

Édits et Ordonnances, I. 12–17.

IV. La dite compagnie se dira et nommera "La Compagnie de la Nouvelle-France," et du dit nom seront intitulées toutes commissions et expéditions souscrites et signées, toutes lettres missives, cédules et lettres de change, et scellées du cachet de la dite société.

V. Des dits directeurs, le tiers du moins seront marchands, lesquels se qualifieront directeurs et administrateurs de la dite compagnie, des affaires de laquelle ils auront l'entier maniement et conduite avec plein pouvoir; et partant nous leur donnons la faculté de nommer et présenter au roi ceux qu'ils jugeront capables, du nombre des dits associés, pour commander aux deux vaisseaux que le roi donnera, même en toute l'étendue de la dite Nouvelle-France, en l'absence de mon dit seigneur le grand-maître, chef et surintendant général de la navigation et commerce de France, places et forts qui se bâtiront en icelle. . . .

VII. Distribuer les terres de la dite Nouvelle-France, à telles clauses et conditions qu'ils verront être les plus avantageuses pour la compagnie, ainsi qu'il est porté par les dits articles; même commettre tels sur les lieux qu'ils trouveront à

he became chief minister of Louis XIII. Richelieu was much interested in the development of French commercial and colonial interests, and the organisation of the Company of One Hundred Associates in 1627 was due largely to his inspiration. Down to the date of his death in 1642 his interest in this sphere continued, notwithstanding the enormous energy which he was compelled to expend upon the administration of internal affairs in France. The best elaborate study of his life and achievements is Georges d'Avenel's *Richelieu et la monarchie absolue* (4 vols., Paris, 1884–1890). See also Jules Caillet, *De l'administration en France sous le ministère du Cardinal de Richelieu* (Paris, 1857); and Gabriel Hanotaux, *Histoire du Cardinal de Richelieu* (2 vols., Paris, 1893–1903).

propos pour la distribution des dites terres, et en régler les conditions. . . .

XI. Ne seront ces directeurs obligés, en leurs assemblées et délibérations particulières, d'appeler plus grand nombre des dits associés pour les assister, qu'en cas qu'il soit question de présenter au roi et nommer quelques officiers ou personnes de commandement, ou bien de leur délivrer provisions à cet effet, ou qu'ils voulussent distribuer et aliéner aux dits associés et autres quelques terres de la dite Nouvelle-France, excédant deux cents arpents,[1] pour ce qu'aux dits cas ils seront tenus d'appeler en leur assemblée le plus grand nombre des associés que faire se pourra, et ne vaudra ce qui aura été par eux résolu, que la dite délibération ne soit au moins souscrite de vingt des dits associés,[2] y compris les directeurs ou leurs procureurs, en la présence du sieur intendant[3] des affaires du dit pays de la Nouvelle-France: et pour les autres affaires, les résolutions ne seront valables qu'elles ne soient au moins souscrites de quatre des directeurs et du secrétaire de la compagnie. . . .

Fait à Paris, le sept mai, mil six cent vingt-sept.

ARMAND, Cardinal de Richelieu.

[1] The *arpent de Paris* was used both as a unit of length and as a unit of area. The lineal arpent is about the equivalent of 192 English feet; the superficial arpent comprises 0.324 French hectares, and may for all practical purposes be reckoned as five-sixths of an English acre. Nearly all the grants made by the Company during the period 1627–1663 greatly exceeded this area. Many grants *en seigneurie* were made to associates themselves, and these were usually of formidable extent. Thus Simon Le Maître, one of the Company's directors, received a grant of three leagues by six (*Titres des Seigneuries*, 24); while to another director, Jacques Castillon, was given the whole of the Island of Orleans (*Ibid.*, 350).

[2] The title-deeds were usually signed in the name of the Company by the secretary only.

[3] The term "intendant" was sometimes used as the title of the officer who had charge of the Company's commercial affairs in France. The office of royal intendant, however, did not make its appearance in connection with the affairs of New France until 1663, after the Company's charter had been annulled. On this point, see W. B. Munro on "The Office of Intendant in New France," *American Historical Review*, October, 1906, pp. 15–38.

No. 4. Title-deed of the Seigniory of Beauport, granted to Robert Giffard,[1] January 15, 1634.

Titres des Seigneuries, 386.

La Compagnie de la Nouvelle-France, à tous présents et à venir, salut.

Le désir que nous avons d'avancer la colonie en la Nouvelle-France, suivant la volonté du roi, nous faisant recevoir ceux qui ont le moyen d'y contribuer de leur part et voulant distribuer les terres du dit pays à ceux qui participent avec nous en ce louable dessein et qui seront capables de les faire défricher et cultiver pour y attirer les Français par l'exemple desquels les peuples du dit pays qui ont vécu jusqu'à présent sans aucune police, pourront être instruits en la connaissance du vrai Dieu et nourris en l'obéissance du roi, après qu'il nous est apparu des bonnes intentions du sieur Robert Giffard, et de son zèle à la religion catholique, apostolique et romaine et au service du roi—à ces causes et en vertu du pouvoir à nous donné par Sa Majesté, avons au dit sieur Giffard donné et octroyé, donnons et octroyons, par ces présentes, l'étendue et circonstances des terres qui en suivent, c'est à dire, savoir : une lieue de terre à prendre de long de la côte du fleuve Saint-Laurent, sur une lieue et demie de pro-

[1] Robert Giffard, born in Perche in 1587, first came to Canada as surgeon on one of the trading vessels which made annual trips to the St. Lawrence before 1627. In 1628 he was captured by the English on his way home to France; but after the restoration of Quebec to the French he returned, and in 1634 received the seigniory of Beauport. This was the first seigniorial grant made by the Company of One Hundred Associates, and Giffard is often spoken of as "the first seignior in Canada," but not properly so; for Louis Hébert had become seignior of Sault au Matelot several years previously, in virtue of a grant *en fief noble* from the Duc de Montmorenci, viceroy of New France (*Titres des Seigneuries*, 321, 373). The family of Giffard was one of the most prominent in the earlier history of the colony. For the later history of the seigniory of Beauport, see below, p. 134, note 2.

fondeur dans les terres,[1] à l'endroit où la rivière appelée Notre-Dame de Beauport entre dans le dit fleuve, icelle rivière comprise, pour jouir des dits lieux par le dit sieur Giffard, ses successeurs ou ayants cause en toute justice, propriété et seigneurie à perpétuité, tout ainsi et pareil droit qu'il a plu à Sa Majesté donner le pays de la Nouvelle-France à la dite compagnie, à la réserve, toutefois, de la foi et hommage,[2] que le dit Giffard, ses successeurs ou ayants cause, seront tenus porter au fort Saint-Louis, à Québec, ou autre lieu qui sera désigné par la dite compagnie, par un seul hommage lige à chaque mutation de possession des dits lieux, avec une maille d'or du poids d'une once et le revenu d'une année: de ce que le dit sieur Giffard se sera réservé après avoir donné en fief ou à cens et rentes toute ou partie des dits lieux et que les appellations du juge des dits lieux ressortiront dûment à la cour et justice souveraine qui sera ci-après établie au dit pays; que les hommes que le dit sieur Giffard, ou ses successeurs feront passer en la Nouvelle-France tourneront à la décharge de la dite compagnie en diminution du nombre qu'elle doit y faire passer, et à cet effet, on remettra tous les ans les rôles au bureau de la dite compagnie, afin qu'elle en soit certifiée, sans toutefois que le dit sieur Giffard ou ses successeurs puissent traiter des peaux et pelleteries au dit lieu ni ailleurs en la Nouvelle-France qu'aux conditions de l'édit de l'établissement de la dite compagnie;[3] outre lesquelles choses ci, la compagnie a encore accordé au dit sieur Giffard, ses successeurs ou ayants cause, une place proche le fort de Québec contenant deux arpents, pour y construire une maison, avec les commodités de cour et jardin, lesquels lieux il tiendra à cens du dit lieu de Québec, sans que le dit sieur

[1] This was in 1653 increased to four leagues in depth. See *Titres des Seigneuries*, 352.

[2] Giffard rendered his first fealty and homage at the Château de St. Louis at Quebec on December 31, 1635 (*Ibid.*, 387).

[3] Printed above, pp. 3–4.

Giffard, ses successeurs ou ayants cause, puissent disposer de tout ou de partie des lieux ci-dessus à lui concédés qu'avec le gré et le consentement de la dite compagnie, pendant le terme et espace de dix ans, à compter du jour des présentes, après lequel temps il lui sera loisible d'en disposer au profit de personne qui soit de la qualité requise par l'édit de l'établissement de la dite compagnie et sans que le dit Giffard, ses successeurs et ayants cause, puissent fortifier les lieux ci-dessus concédés sans la permission de la dite compagnie. Mandons au sieur Champlain,[1] commandant pour la dite compagnie sous l'autorité du roi et de monseigneur le cardinal de Richelieu, grand-maître, chef et surintendant général de la navigation et commerce de France, au fort et habitation de Québec et dans l'étendue du dit fleuve Saint-Laurent et terres adjacentes, que de la présente concession il fasse jouir le dit sieur Giffard, le mettre en possession des lieux et places ci-dessus à lui accordés, dont et de quoi il certifiera la dite compagnie au premier retour qui se fera en France.

Fait en assemblée générale de la compagnie de la Nouvelle-France, tenue en l'hôtel de M. le président de Lauson, conseiller du roi en ses conseils d'état et privés, intendant de la dite compagnie. À Paris, le quinzième janvier, mil six cent trente-quatre.

Par la compagnie de la Nouvelle-France.

LAMY.

[1] After the cession of the colony to the Company, Samuel de Champlain continued in office as governor and commandant at Quebec.

No. 5. Royal Decree accepting the Surrender of all Rights held by the Company of One Hundred Associates, March, 1663.

Édits et Ordonnances, I. 31–32.

Louis, par la grâce de Dieu Roi de France et de Navarre, à tous présents et à venir, salut.

Depuis qu'il a plu à Dieu donner la paix à notre royaume nous n'avons rien eu plus fortement dans l'esprit que le rétablissement du commerce, comme étant la source et le principe de l'abondance que nous nous efforçons par tout moyen de procurer à nos peuples; et comme la principale et plus importante partie de ce commerce consiste aux colonies étrangères, auparavant que de penser à en établir aucunes nouvelles, nous avons cru qu'il était nécessaire de penser à maintenir, protéger et augmenter celles qui se trouvent déjà établies; c'est ce qui nous auroit convié de nous informer particulièrement de l'état auquel était le pays de la Nouvelle-France, dont le roi défunt, notre très honoré seigneur et père de glorieuse mémoire, avoit fait don à une compagnie composée du nombre de cent personnes, par traité de l'année 1628. Mais au lieu d'apprendre que ce pays étoit peuplé, comme il devoit [être], vu le long tems qu'il y a que nos sujets en sont en possession, nous aurions appris avec regret que non seulement le nombre des habitans étoit fort petit,[1]

[1] These statements as to the apathy of the Company are corroborated in contemporary writings. See, for example, Pierre Boucher's *Histoire véritable et naturelle des mœurs et productions du pays de la Nouvelle-France* (Paris, 1664; new edition, Montreal, 1882). The anonymous *Mémoire* on the state of the colony (undated), preserved in the *Correspondance Générale*, Vol. II., also contains a scathing arraignment of the lack of interest shown by the associates in the work of serious colonisation. The census of 1665–66 gave the total population of the colony as 3215 (George Johnson, *Summary of the Censuses of Canada*, 1665–1871, Ottawa, 1876, p. 2).

mais même qu'ils étoient tous les jours en danger d'en être chassés par les Iroquois. À quoi étant nécessaire de pourvoir, et considérant que cette compagnie de cent hommes étoit presque annéantie par l'abandonnement volontaire du plus grand nombre des intéressés en icelle, et que le peu qui restait de ce nombre n'était pas assez puissant pour soutenir ce pays et pour y envoyer les forces et les hommes nécessaires, tant pour l'habiter que pour le défendre, nous aurions pris la résolution de le retirer des mains des intéressés en la dite compagnie, lesquels par délibération prise en leur bureau, auroient résolu de nommer les principaux d'entr'eux pour en passer la cession et démission à notre profit, laquelle auroit été faite par acte du 24e jour de février dernier,[1] lesquels actes sont ci-attachés, sous le contre-scel de notre chancellerie.

À ces causes et autres considérations à ce nous mouvant, nous avons dit, déclaré et ordonné, disons, déclarons et ordonnons, voulons et nous plaît, que tous les droits de propriété, justice, seigneurie, de pourvoir aux offices de gouverneurs, et lieutenants généraux des dits pays et places, même de nous nommer des officiers pour rendre la justice souveraine, et autres généralement quelconques accordés par notre très honoré seigneur et père, de glorieuse mémoire, en conséquence du traité du 29e avril 1628, soient et demeurent réunis à notre couronne pour être dorénavant exercés en notre nom par les officiers que nous nommerons à cet effet, si donnons en mandement à nos aimés et féaux conseillers les gens tenant notre cour de parlement à Paris, que ces présentes ils fassent

[1] Anticipating a revocation of their charter by the king, the directors of the Company first drew up a statement of "Reasons advanced by the Company to prevent its being Dispossessed" (*Correspondance Générale*, Vol. II.); but this does not appear to have been regarded as affording a satisfactory explanation of its meagre achievements. Hence the associates, on February 24, 1663, resolved to surrender all their rights (for the resolution, see *Édits et Ordonnances*, I. 31). The directors also submitted a "Memoir of Expenses incurred by the Company from 1628 to 1663" (*Correspondance Générale*, Vol. II.), and requested that the king award some compensation for its losses; but this request does not appear to have been granted.

lire, publier et régistrer et le contenu en icelles garder et observer de point en point selon leur forme et teneur; car tel est notre plaisir; et afin que ce soit chose ferme et stable à toujours, nous avons fait mettre notre scel à ces dites présentes, sauf en autres choses notre droit et l'autrui en tout.

Donné à Paris, au mois de mars l'an de grâce 1663, et de notre règne le vingtième. LOUIS.

No. 6. Royal Arrêt providing for the Revocation of all Grants of Land remaining Uncleared, March 21, 1663.

Édits et Ordonnances, I. 33.

LE roi s'étant fait représenter en son conseil son édit du présent mois,[1] par lequel, Sa Majesté, en conséquence de la cession et démission des intéressées en la Compagnie de la Nouvelle-France, auroit repris tous les droits qui leur avoient été accordés par le roi défunt, en conséquence du traité du vingt-neuf avril, mil six cent vingt-sept, et ayant été remontré à Sa Majesté que l'une des principales causes que le dit pays ne s'est pas peuplé comme il auroit été à désirer, et même que plusieurs habitations ont été détruites par les Iroquois, provient des concessions de grande quantité de terres qui ont été accordées à tous les particuliers habitants du dit pays[2] qui n'ayant jamais été et n'étant pas en pouvoir de défricher, et

[1] Printed above, pp. 10–12.

[2] During the period of Company government somewhat more than sixty grants of land were made. The complete list may be found, with the names of the grantees and a summary of the terms upon which the grants were made, in Christopher Dunkin's *Address at the Bar of the Legislative Assembly of Canada on behalf of certain Seigniors in Lower Canada* (Quebec, 1853), Appendix. Many of the grants were made to associates and their friends in France, most of whom never came to the colony.

ayant établi leur demeure dans le milieu des dites terres : ils se sont par ce moyen trouvés fort éloignés les uns des autres et hors d'état de se secourir et s'assister et même d'être secourus par les officiers et soldats des garnisons de Québec et autres places du dit pays, et même il se trouve par ce moyen que dans une fort grande étendue de pays, le peu de terres qui se trouvent aux environs des demeures des donataires se trouvant défrichées, le reste est hors d'état de le pouvoir jamais être.[1] À quoi étant nécessaire de pourvoir, Sa Majesté étant en son conseil a ordonné et ordonne que dans six mois du jour de la publication du présent arrêt, dans le dit pays tous les particuliers habitans d'icelui feront défricher les terres contenues en leurs concessions, sinon et à faute de ce faire, le dit tems passé, ordonne Sa Majesté, que toutes les terres encore en friche, seront distribuées par nouvelles concessions au nom de Sa Majesté, soit aux anciens habitants d'icelui, soit aux nouveaux. Révoquant et annulant Sa dite Majesté toutes concessions des dites terres non encore défrichées par ceux de la dite compagnie : mande et ordonne Sa dite Majesté aux ieurs De Mézy, gouverneur,[2] évêque de Petrée,[3] et Robert, intendant au dit pays,[4] de tenir le main à l'exécution ponctuelle du

[1] The census of 1667 gave the amount of cultivated land as 11,448 arpents, with a population slightly less than 4000. See Johnson, *Summary of the Censuses of Canada*, 1665–1871, p. 7.

[2] Auguste de Saffray, Sieur de Mézy, appointed governor and lieutenant-general of New France in 1663. His commission, dated May 1, may be found in *Édits et Ordonnances*, III. 21–22. He died only two years after his appointment to the office.

[3] François-Xavier de Laval, appointed to the post of vicar-apostolic in New France in 1659. As the colony had not yet been made a diocese, Laval was for the time being created titular bishop of Petræa in Arabia. In 1674 he was permitted to assume the post of bishop of Quebec. He was a member of the Sovereign Council, and during his tenure of office proved himself a towering figure in the political affairs of the colony. A sympathetic study of his life and work is to be found in Auguste Gosselin's *Vie de Monseigneur de Laval, premier évêque de Québec et apôtre du Canada* (2 vols., Quebec, 1890).

[4] This is the earliest mention, in any official document, of the office of royal intendant in New France. As the commission of Louis Robert, the first appointee to the post, does not appear to have been preserved, the exact date

présent arrêt : même de faire la distribution des dites terres non défrichées, et d'en accorder des concessions au nom de Sa dite Majesté.

Fait au conseil d'état le roi y étant, le vingt-unième jour de mars, mil six cent soixante-trois.

De Lomenie.
Mézy.
François, évesque de Petrée.
Rouer de Villeray.
Juchereau de La Ferte.
Ruette d'Auteuil.
Damours.
Bourdon.

No. 7. Royal Instructions given to the Sieur Gaudais,[1] Special Commissioner to Investigate Conditions in New France, May 7, 1663.

Édits et Ordonnances, III. 23–27.

. . . Le dit Sieur Gaudais étant informé que la principale chose qu'il faut examiner pour la manutention des colonies du dit pays, et pour leur augmentation étant de défricher la plus grande quantité de terres qu'il se pourra, et de faire en

of his appointment is unknown. It appears certain, however, that he never exercised any of the functions of the office. See Régis Roy on "Les intendants de la Nouvelle-France," in Royal Society of Canada, *Proceedings*, 1903, *Mémoires*, sec. i. 63–64.

[1] Louis Gaudais du Pont (or Dupont-Gaudais) arrived in Canada during the summer of 1663. He appears to have devoted his energies to supporting one of the factions in the political quarrels which were convulsing Quebec at the time, rather than to any careful investigation of the progress of agriculture and of the various other matters upon which the home authorities desired information. His despatches are taken up largely with discussions of the Dumesnil episode, and contain little of any importance concerning the workings of the land-tenure system.

sorte que tous les habitants soient unis dans leurs demeures, et qu'ils ne soient pas éloignés les uns des autres d'une grande distance, sans quoi ils ne peuvent s'assister pour toutes les choses qui regardent la culture de leurs champs, mais même sont exposés aux insultes des sauvages et particulièrement des Iroquois, lesquels par le moyen de cette séparation, peuvent venir presque à couvert dans les bois jusqu'aux habitations des dits Français, les surprennent facilement, et parcequ'ils ne peuvent être secourus, les massacrent et font déserter ainsi ces habitations qui sont éparses qui ça qui là.[1] Il n'y a rien de si grande conséquence que de travailler à réunir les dits habitans en des corps de paroisses ou bourgades, et à les obliger à défricher leurs terres de proche en proche, afin de s'entre-secourir au besoin, et quoique ce moyen fut le plus certain il trouvera assurément, étant sur les lieux, que le peu de soin et de connaissance que la compagnie, qui a ci-devant possédé le pays, en a eu, et l'avidité de ceux qui ont voulu s'y habituer, lesquels ont toujours demandé des concessions de terres de grande étendue, dans lesquelles ils se sont établis, ont donné lieu à cette séparation d'habitations, qui se trouvant fort éloignées les unes des autres, non seulement les particuliers qui ont obtenu des concessions n'ont pas été en état d'en faire les défrichements mais même a donné grande facilité aux Iroquois à leur couper la gorge, massacrer et rendre désertes presque toutes les dites habitations, et c'est ce qui a obligé le roi de rendre l'arrêt[2] dont la copie est mise entre les mains du dit Sieur Gaudais, ensemble de faire écrire au sieur évêque de Petrée, de remettre entre ses mains l'original du dit arrêt, pour le faire publier et afficher partout aussitôt après son arrivée.

Et comme il voit clairement par les raisons ci-dessus expliquées, qu'il est impossible de se pouvoir jamais assurer de ce pays et d'y faire des habitations considérables, que l'on n'oblige

[1] *Qui ça qui là*, i.e. *par-ci par-là*, or *de côté et d'autre.*

[2] Printed above, pp. 12–14.

tous ceux qui ont eu ces concessions de les abandonner, et de s'unir en des bourgades et paroisses les plus nombreuses qu'il se pourra pour défricher toutes les terres qui se trouveront aux environs de proche en proche, lesquelles en ce cas il faudroit de nouveau partager et en donner à chacune bourgade ou paroisse, selon le nombre de familles dont elle seroit composée, il tâchera de persuader cette vérité par toutes sortes de moyens au dit sieur évêque, au gouverneur et aux principaux du pays, afin qu'ils concourrent unanimement à faire réussir ce dessein, lequel il leur fera connoître être non seulement d'une nécessité absolue pour leur conservation, mais même que Sa Majesté le fera exécuter par une révocation générale de toutes les concessions.

Au cas que quelques-uns de ceux auquels les dites concessions ont été faites, se mettent en devoir de les défricher entièrement, et qu'avant l'expiration des six mois portés par le dit arrêt, ils aient commencé d'en défricher une bonne partie, l'intention de Sa Majesté est que sur leur requête le conseil souverain les puisse pourvoir d'un nouveau droit de six mois seulement, lequel étant fini, elle veut que toutes les susdites concessions soient déclarées nulles.

Il apportera, s'il se peut, un rôle de tous les habitans, tant hommes, femmes, garçons, filles que petits enfants.

Il s'informera soigneusement de toute l'étendue du pays qui est occupé par les Français, de chacune habitation particulière, du nombre des familles et de personnes dont elles sont composées, et des lieux de leur situation, dont il faudra dresser une forme de carte autant exacte qu'il se pourra.

Il fera mention du nombre d'arpents de terre qui seront labourés et enclavés en chacune habitation, et de quelle qualité sont celles non défrichées, qui se trouvent entre les dites habitations.

Il s'informera aussi de la quantité de bled que le pays peut produire, année commune : s'il en produit plus grande quantité qu'il n'en faut pour la subsistance des habitans, et

s'il y a quelque sorte d'espérance que cela pourra augmenter ou non, étant d'une extrême conséquence pour les peuples du dit pays de cultiver la terre, en sorte qu'elle fournisse plus de bled qu'il n'en est nécessaire pour leur nourriture, afin de n'être pas exposés à l'avenir à la même peine où ils ont été jusqu'à présent, de ne pouvoir nourrir les personnes qui y passent chaque année, si en même tems l'on n'y porte des farines pour leur subsistance. . . .

Fait à Paris, le septième jour de mai, mil six cent soixante-trois. LOUIS.

No. 8. Extracts from the Charter of the Company of the West Indies, May, 1664.[1]

Édits et Ordonnances, I. 40–48.

XIX. Appartiendront à la dite compagnie, en toute seigneurie, propriété et justice, toutes les terres qu'elle pourra conquérir et habiter pendant les dites quarante années en l'étendue des dits pays ci-devant exprimés et concédés, comme aussi les Isles de l'Amérique appellées Antilles, habitées par les Français, qui ont été vendues à plusieurs particuliers par la compagnie des dites Isles formée en 1642, en remboursant les seigneurs propriétaires d'icelles des sommes qu'ils ont payées pour l'achat, conformément à leurs contrats d'acquisition, et des améliorations et augmentations qu'ils y ont faites suivant la liquidation qu'en feront les commissaires par nous à ces députés, et les laissant jouir des habitations qu'ils y ont établies depuis l'acquisition des dites Isles.

[1] On the organisation and operations of the Company of the West Indies, see Henri Pigeonneau on "La politique coloniale de Colbert," in *Annales de l'école libre des sciences politiques*, 1886; C. Cordier, *Les compagnies à charte sous le ministère de Colbert* (Paris, 1906); and Pierre Clément, *Lettres, instructions, et mémoires de Colbert* (7 vols., Paris, 1861–1870).

XX. Tous lesquels pays, isles et terres, places et forts, qui pourront y avoir été construits et établis par nos sujets, nous avons donnés, octroyés et concédés, donnons, octroyons et concédons à la dite compagnie pour en jouir à perpétuité en toute propriété, seigneurie et justice: ne nous réservant autre droit, ni devoir que la seule foi et hommage-lige, que la dite compagnie sera tenue de nous rendre et à nos successeurs rois, à chaque mutation de roi avec une couronne d'or du poids de trente marcs. . . .

XXII. Jouira la dite compagnie en qualité de seigneur des dites terres et isles, des droits seigneuriaux qui y sont présentement établis sur les habitants des dites terres et isles, ainsi qu'ils se lèvent à présent par les seigneurs propriétaires, si ce n'est que la compagnie trouve à propos de les commuer en autres droits pour le soulagement des dits habitants.

XXIII. La dite compagnie pourra vendre ou inféoder les terres, soit dans les dites isles et terres fermes de l'Amérique ou ailleurs dans les dits pays concédés, à tels cens, rentes et droits seigneuriaux qu'elle jugera bon et à telles personnes qu'elle trouvera à propos.[1] . . .

XXXI. Pourra la dite compagnie comme seigneurs haut-justiciers de tout les dits pays, établir des juges et officiers partout où besoin sera, et où elle trouvera à propos de les déposer et destituer, quand bon lui semblera, lesquels connoîtront de toutes affaires de justice, police, commerce, navigation tant civiles que criminelles: et où il sera besoin d'établir des conseils souverains, les officiers dont ils seront composés, nous seront nommés et présentés par les directeurs généraux

[1] The Company proceeded to take advantage of these powers by sending to the colony Mille-Edmé Le Barroys as its agent, instructing him to grant lands "to private individuals at such rents as may be deemed proper," and to see that the Company received "the seigniorial dues which are now or may hereafter be payable by the inhabitants" (for the instructions of Le Barroys, see *Édits et Ordonnances*, III. 36–37). In 1666, however, Le Barroys proposed that all grants should be made by the royal authorities (see below, p. 20); and this proposal was accepted.

de la dite compagnie : et sur les dites nominations les provisions seront expédiées.[1] . . .

XXXIII. Seront les juges établis en tous les dits lieux, tenus de juger suivant les loix et ordonnances du royaume, et les officiers de suivre et se conformer à la Coutume de la Prévôté et Vicomté de Paris, suivant laquelle les habitants pourront contracter sans que l'on y puisse introduire aucune coutume pour éviter la diversité.[2] . . .

Donné à Paris au mois de mai, l'an de grâce mil six cent soixante-et-quatre, et de notre règne le vingt-deuxième.

Louis.

[1] Although by the provisions of this clause the Company was clearly invested with the right to appoint all the administrative and judicial officials in the various colonies granted to it, the king seems to have kept the matter of appointments wholly in his own hands. On this point, see Thomas Chapais, *Jean Talon, intendant de la Nouvelle-France* (Quebec, 1904), 49.

[2] It was by the terms of this article that the *Coutume de la prevôté et vicomté de Paris*, commonly called the Custom of Paris, was first introduced as the "common law" of New France. This Custom was first compiled officially in 1510, but was revised and altered in several important respects in 1580. It may be found in Claude Ferrière's *Nouveau commentaire sur la Coutume de Paris* (2 vols., Paris, 1762). The articles of the Custom which were actually applied in Canada may be found in *An Abstract of those parts of the Custom of the Viscounty and Provostship of Paris, which were received and practised in the Province of Quebec in the time of the French Government* ("drawn up by a Select Committee of Canadian Gentlemen well skilled in the Laws of France and of that Province," London, 1772). On the arrangement and nature of the Custom, see Buche's "Essai sur l'ancienne Coutume de Paris aux XIII^e^ et XIV^e^ siècles," in *Nouvelle Revue Historique*, VIII. 45–86 ; Henri Klimrath's *Études sur les coutumes* (Paris, 1837) ; Edmond Lareau's *Histoire du droit canadien* (2 vols., Montreal, 1888), I. chap. v. ; and the lengthy article on the coutumes in *La Grande Encyclopédie* (31 vols., Paris, 1881–1900). As to the merits of the royal policy in introducing the Custom of Paris as the general law of Canada at this time, see W. B. Munro, *The Seigniorial System in Canada* (Harvard Historical Studies, Vol. XIII., New York, 1907), 9–10.

No. 9. Extract from the Memorial of M. Le Barroys to Messieurs de Tracy, de Courcelle, and Talon concerning the Procedure to be followed in making Grants of Seigniories in New France, August 18, 1666.

Édits et Ordonnances, I. 51–60.

À Monseigneur de Tracy et à Messieurs le Gouverneur et l'Intendant.

Requiert humblement le soussigné, agent-général de la Compagnie des Indes Occidentales. . . .

Bon. Ce qui est demandé par cet article me semble si juste, qu'il n'y a pas lieu de le refuser: seulement il est bon d'examiner si ces titres, aveux et dénombrements ne seront pas mieux ès mains du greffier ou du procureur fiscal, dans les archives de la compagnie, qu'ès mains de son agent général: cela étant de l'intérêt de la compagnie seule, c'est à elle de le déterminer.

XXV. Que le papier terrier commencé par monsieur l'intendant soit fait au nom de la dite compagnie, et que les aveux et dénombrements, même les fois et hommages soient rendus au dit nom entre les mains de mon dit sieur l'intendant, et en présence de l'agent ou commis général de la dit compagnie, et que pour cet effet les titres concernant les concessions, tant en fief qu'en roture, soient remis entre les mains du dit agent ou commis général, pour en être les dépositaires et en rendre compte à la dite compagnie toutefois et quantes.

Bon. Rien ne paroît plus conforme aux intentions de

XXVI. Que les concessions qui se feront à l'avenir seront

Sa Majesté: ainsi il semble très juste d'accorder ce qui est demandé par cet article. . . .

Fait à Québec, ce onzième septembre, mil six cent soixante-et-six.

TRACY.
COURCELLE.
TALON.

données par mon dit sieur l'intendant, à tels cens et rentes qu'il sera par lui jugé à propos, en présence du dit agent ou commis général de la dite compagnie, au nom de laquelle tous les titres de concessions seront passés.[1] . . .

Fait à Québec, ce dix-huitième jour d'août, mil six cent soixante-et-six.

LE BARROYS.[2]

[1] In obedience to this request, seigniorial grants were made by the intendant from 1666 to 1676 (see below, p. 41). On a few occasions, while Talon was absent in France, Governor Courcelle made provisional grants; but these were ratified by the intendant upon his return to the colony (see, for example, *Titres des Seigneuries*, 29, 119, 122). Although this procedure was followed as a general rule, the Company, during the years 1673–1674, made a few seigniorial grants directly through its own officers (*Ibid.*, 30, 40, 112).

[2] Mille-Edmé Le Barroys was sent out to Quebec in 1665 as the agent-general of the Company of the West Indies, with instructions to supervise, among other things, the granting of land in the name of the Company (see the commission of Le Barroys, in *Jugements et délibérations du Conseil Souverain de la Nouvelle-France*, I. 364–366). Shortly after his arrival in the colony the agent-general submitted to Lieutenant-general Tracy a list of thirty-one requests designed to make clear the rights and duties of the Company in Canada. Tracy, with Governor Courcelle and the intendant Talon, returned the document with marginal responses on September 11, 1666.

No. 10. Extract from the Draft of Regulations relating to the Administration of Justice and the Distribution of Lands in Canada, submitted by M. Talon to Messieurs de Tracy and de Courcelle, January 24, 1667.

Édits et Ordonnances, II. 29–34.

. . . Les soldats du régiment de Carignan-Salière[2] ou des garnisons des forts de Québec, des Trois-Rivières, et Montréal étant de droit et de fait engagés au roi par la solde qu'ils ont reçue, ne pouvant se dispenser de continuer de rendre dans le tems et dans les occasions futures leurs services à Sa Majesté, soit pour la défense du pays dans laquelle ils s'intéresseront, comme dans la chose publique et le salut commun de tous, soit pour toutes entreprises qui regarderont l'utilité et l'avan-

[1] Jean Talon, the first active intendant of New France, came to the colony in 1665. His commission, dated March 23, 1665, may be found in *Édits et Ordonnances*, III. 33–35. Talon displayed unusual zeal in obtaining a grasp of colonial needs, and soon elaborated comprehensive plans for the development of colonial resources. His despatches and reports to the home authorities give evidence of remarkable fertility in suggestions, as well as of excellent judgment. For a full account of the life and work of Talon, see Chapais's *Jean Talon* (Quebec, 1904).

Alexandre de Prouville, Sieur de Tracy, was sent to New France in the spring of 1665 as lieutenant-general of all the French domains in the New World. His commission, dated November 19, 1663, may be found in *Édits et Ordonnances*, III. 27–29. In addition to supervising the military operations against the Iroquois, Tracy was instructed to examine carefully the civil conditions in the colony and to report thereon to the home authorities. He returned to France in 1667.

Daniel de Rémy de Courcelle was appointed governor of New France by commission dated March 23, 1665 (*Ibid.*, 313), and came to the colony in the same year. He remained in office until 1672, when he was replaced by Frontenac.

[2] The Régiment de Carignan-Salières was the first detachment of French regular troops sent out to Canada. It arrived in the spring of 1665, about one thousand strong, and during the next two years was used in the operations

tage de l'Ancienne et Nouvelle-France, ainsi il n'y a aucun inconvénient de leur donner les terres qu'ils défricheront à cette condition qui ne leur sera pas onéreuse, puisqu'elle ne les sortira pas de celle dans laquelle ils se trouvent à présent, et parcequ'ils ne se peuvent établir par leur seul travail, il faut de nécessité les assister dans les premières années. Il semble autant utile à Sa Majesté que juste, de leur donner quelque secours de vivres et d'outils propres à leur travail, et de leur payer la culture des deux premiers arpents de terre qu'ils abattront et brûleront, quoique pour leur compte et à leur profit, les obligeant d'en cultiver en échange deux autres dans les trois ou quatre années suivantes, au profit des familles qui passeront de France ici, sans que pour ce il leur en soit rien payé : par cet expédient on leur fournit les moyens de se faire un fonds de subsistance pour l'hiver, et on prépare des terres pour les familles que le roi semble vouloir établir à ses dépens.

Cette manière de donner un pays de nouvelle conquête a

against the Iroquois. The previous history of this notable regiment is given in Louis Susane's *Histoire de l'ancienne infanterie française* (8 vols., Paris, 1849–1853, V. 236 ff.). As will be seen from his "Draft of Regulations," as well as from his despatches, Talon was much interested in the idea of peopling the colony with settlers who could render service in its defence, and much desired that such companies of the regiment as had not already returned to France should be mustered out upon the lands in Canada. The proposals of the intendant were, it may be added, favourably received by the home authorities, and instructions that his general plan should be followed were promptly forthcoming. Large tracts of land, mainly along the Richelieu River, were granted *en seigneurie* to the officers of the regiment, and were by them, in turn, subgranted to the non-commissioned officers and men. In some respects the carrying out of the project proved of advantage to the colony, but on the whole the scheme was not ultimately a success. As was shown by Catalogne's report, the good soldier seems often to have made an indifferent agriculturist. Many of the officers went heavily into debt to merchants at Quebec or Montreal, and in the course of time abandoned their seigniories to these creditors (see below, p. 102, note 2). Further details regarding the history of the Carignan officers in Canada may be found in Benjamin Sulte's "Le régiment de Carignan," in Royal Society of Canada, *Proceedings*, 1902, *Mémoires*, sec. i. 25–95, and in Georges Tricoche's *Les milices françaises et anglaises au Canada* (Paris, 1900).

son exemple dans l'antiquité romaine, et peut répondre à celle en laquelle on donnoit autrefois chez les mêmes romains des champs des provinces subjuguées qu'on appeloit *proedia militaria :*[1] la pratique de ces peuples politiques et guerriers peut à mon sentiment être judicieusement introduite dans un pays éloigné de mille lieues de son monarque et du corps de l'état dont il n'est qu'un membre fort détaché, qui peut [se] voir souvent réduit à se soutenir par ses propres forces. Elle est à mon sentiment d'autant plus à estimer qu'elle fera quelque jour au roi, un corps de vieilles troupes qui ne seront plus à charge à Sa Majesté, et cependant capables de conserver le corps de cet état naissant de Canada avec tous les accroissemens qu'il peut recevoir contre les incursions des sauvages ou les violentes invasions des européens,[2] même, dans les besoins pressants de l'ancienne France, fournir un secours considérable à Sa Majesté.

Outre ces premiers motifs, il est bon de peser sur celui que font naître la paix et la tranquillité publique, pour lesquelles maintenir, il faut mettre en pratique toute la prudence humaine, n'y ayant rien dans la vie civile dont la conservation soit si précieuse que des choses qui tendent au maintien de l'union et du repos des peuples qui dépendent particulièrement de leur fidélité envers leur souverain et de celle-ci la conservation des provinces conquises et nouvellement découvertes dans les pays éloignés, à l'obéissance et sous la domination de ce même souverain, pourquoi les premiers de nos rois, plus grands politiques qu'on ne s'est persuadé, introduisoient dans

[1] On the system of military colonisation in the Roman provinces to which Talon here makes reference, see Tacitus, *Annals*, especially XII. § 32, XIII. § 31 ; Edward Gibbon, *The Decline and Fall of the Roman Empire*, I. 259 ff. ; and Theodor Mommsen, *History of Rome*, I. 260 ff.

[2] The settlement of the disbanded regiment upon the lands lying along the Richelieu River from Lake Champlain to the St. Lawrence was designed to interpose a barrier against the invasion of Canada by either the Mohawks or the English. The Richelieu route was the natural channel of invasion from the south.

les pays de nouvelles conquêtes des gens de guerre dont la fidélité leur étoit bien connue, et qui étoient nés leurs sujets, afin de contenir au-dedans les habitans dans le devoir, et au dehors, éloigner leurs ennemis communs, et pour les y entretenir et faire subsister, ils leur concédoient des terres dans ces pays pour les cultiver, et faire de leurs productions tout le nécessaire à la vie: pratique également économe et politique, puisque d'un côté, elle épargnoit les finances du trésor public, et que de l'autre, elle intéressoit l'officier et le soldat en la conservation du pays, comme en celle de son propre héritage.

Les vieux hivernans qui demanderont des habitations pourroient trouver cette condition du service à rendre à Sa Majesté moins agréable que les soldats, si d'un côté les droits naturels qui les obligent à se mettre en campagne, lorsqu'ils sont commandés, de l'autre, l'honneur dont on les peut toucher, et la remise qu'on leur peut faire des autres droits onéreux qui suivent ordinairement les concessions, ne les engageoient suffisamment à la recevoir, ainsi on le peut stipuler dans les contrats qui leur seront passés.[1]

Et comme Sa Majesté semble prétendre faire la dépense entière pour former le commencement des habitations par l'abattis du bois, la culture et semence de deux arpents de terre, l'avance de quelques farines aux familles venantes, on peut à leur égard demander en premier lieu ce qui est demandé des vieux hivernans, qu'ayant reçu deux arpens en état de rendre les fruits de la culture et de la semence qui aura été confiée à la terre, ils en cultivent deux autres dans les trois ou quatre années suivantes celle de leur arrivée, pour ne leur pas demander ce remplacement dans la première ou seconde, ce qui les divertiroit trop de l'amélioration de leur habitation dans un tems auquel elles ont besoin de toute leur application

[1] The title-deeds of seigniories granted to the Carignan officers contained no express stipulation of the obligation of military service. A typical deed is printed below, pp. 34–36.

pour leur donner l'établissement duquel dépend celui de toute leur famille; et pour le bénéfice qu'elles reçoivent par la concession de la terre au lieu de cens sur cens, censives ou autres redevances qu'emportent avec soi les concessions de ce pays, ils engageront au service du roi leur premier-né lorsqu'il aura atteint l'âge de seize ans, qui commencera son noviciat dans une garnison des forts, sans qu'il puisse prétendre autre solde que celle de sa subsistance, ou celle qui lui pourra être ordonnée par les états de Sa Majesté durant le service qu'il rendra. Cette obligation n'ajoute presque rien à celle qu'un véritable sujet apporte au monde avec sa naissance, mais il semble que lorsque cette condition est stipulée, elle est moins rude quand elle est exigée que lorsqu'il n'en est rien dit dans les contrats des terres données comme se donnent toutes celles du Canada.

Comme dans toute cette distribution, il n'est rien réservé au profit de la Compagnie des Indes Occidentales, que Sa Majesté veut bien gratifier de l'avantage que donne en cas pareil le droit de seigneurie, où les habitations relèveront immédiatement d'elle, et en ce cas, la haute, moyenne et basse justice pourra lui être attribuée, avec le droit de lods et ventes, saisines et amendes, et même un cens léger, s'il est jugé à propos ou si Sa Majesté, estimant qu'il soit plus avantageux pour elle d'avoir pour vassaux des officiers de ses troupes qui aient sur les roturiers la seigneurie utile et domaniale, elle peut créer en leur faveur quelques droits de cens ou censives peu considérables, qui soient plutôt des marques d'honneur que des revenus utiles, et leur accorder la moyenne et basse justice, se réservant la haute, qu'elle attachera à une cour souveraine des fiefs ou à quelques officiers crées pour la conservation des droits de seigneur suzerain ou dominantissime.[1] . . .

TALON et TRACY.

[1] On the scope of the different degrees of seigniorial jurisdiction as designated by the terms *basse justice*, *moyenne justice*, and *haute justice*, see Doutre and Lareau, *Histoire générale du droit civil canadien*, 133–136.

No. 11. Despatch of Talon to the Minister regarding the Extent of Seigniorial Grants, October 27, 1667.

Correspondance Générale, II. 525.

. . . On a mandé de l'ancienne France en la Nouvelle que le Roy gratifioit les familles qui peuplent son royaume. Il y a icy deux des plus apparens habitans, et des plus zélés, mais pauvres, qui ont mis au monde, l'un dix enfans, et l'autre quinze, et tout cela s'engage insensiblement dans le mariage, ce qu'ils feroient bien plus commodément si le Roy leur faisoit quelque grâce, quoyque legère.

Les grandes et spacieuses concessions qu'on a cy-devant faites en Canada, font qu'on me demande des estendues de terre, si démesurées, que bien tost j'en manquerais, pour les familles que vous enverriez cy-après, si je répondais au désir d'un chacun. M. de Saurel[1] témoigne n'estre pas satisfait de ce que je ne luy accorde pas un pays qui enferme plus de cinquante mille arpens de terre, et ce qui fait par la chasse l'utilité publique des colons. Il travaille avec application; il est fort agissant, mais il est fort inquiet, et ayant de grands buts et de grands desseins qui me font appréhender en luy, piedmontois, un trop grand establissement en un pays si esloigné de l'autorité originaire. Je ferai cependant à son esgard comme de tous les autres fort ponctuellement ce que vous ordonnez sur le plus et le moins des concessions. Si vous leur accordez ce qu'ils désirent, en vous obéissant, je me feray bien de l'applaudissement. TALON.

[1] Pierre de Saurel, officer of the Carignan regiment. See below, pp. 34–36, and 116, note 1.

No. 12. Despatch of Talon to the Minister concerning the Progress of Colonial Settlement, October 27, 1667.

Correspondance Générale, II. 493.

MONSEIGNEUR,—

. . . Je n'oserois vous demander quelque gratification pour chacun des officiers, capitaines, lieutenans, et enseignes, qui habitent icy (que de ma part j'ayde selon mes forces, et de ce que vous avez mis en mes mains) non plus que pour ceux qui me donnent de bonne grâce les moyens d'avancer la colonie, pour lesquels, à mon sentiment, deux mil escus seroient très bien employés. Mais j'oserais vous demander pour eux un petit tesmoignage d'estime dans quelques unes des lettres du Roy, ou des vostres, qui marquent que Sa Majesté leur sçait gré de ce qu'ils m'ont presté la main pour les establissements qu'elle désirait faire, et qu'elle sçaura leur tesmoigner aux occasions. Cela donnera une grande disposition à ce qu'on devra faire cy-après pour l'exécution de vos ordres. Un d'entre tous, M. de la Motte,[1] premier capitaine et commandant dans le fort le plus avancé vers les Iroquois, m'oblige par sa conduite prudente et sage, et accompagnée de tout le zèle qu'on peut désirer d'un fort bon officier, à le distinguer des autres, et à vous demander pour luy une gratification que j'estimerois devoir estre plus forte de quelque chose que celle de son cadet M. de Chambly,[2] auquel vous avez eu la bonté de faire donner quatre cens escus. J'ay tant de connoissance que cette distinction doit faire dans tout le corps un très bon effet pour le service, que plustost que cette gratification ne soit pas faite, je demande qu'on diminue mes appointements de cinq ou six cens escus pour

[1] Dominique de Lamotte, Sieur de Lucières, officer of the Carignan-Salières.
[2] See below, p. 117, note 4.

luy estre appliqués, pourvu qu'il luy paraisse dans quelque despeche que c'est le Roy qui luy fait cette grâce, pour marque de l'estime que Sa Majesté fait de son zèle à son service. Il suffira que tous les autres dont j'ay donné le rôle à mon secrétaire soient nommés (ainsy que j'ay cy-devant dit) dans quelques unes de vos despêches ou dans celle du Roy si vous le jugez à propos.

Conformément à vostre sentiment j'attache au fort de St. Louis de Québec la mouvance des trois villages que j'ay fait former fort près d'icy, pour fortifier ce poste principal, par un plus grand nombre de colons et le Roy, ou au choix de Sa Majesté, la Compagnie en demeurera seigneur propriétaire jouissant du domaine utile, et des droits que je stipule dans les contracts des habitations que je fais distribuer aux soldats, aux familles nouvellement venues, et aux volontaires du pays qui se lient par mariage aux filles que vous m'avez envoyés auxquels je fais mesme donner la terre que j'ay fait préparer aux despens du Roy à condition que les possesseurs en rendront autant dans l'espace de trois ans, au profit des familles envoyées de France que mes successeurs auront ordre d'establir, prétendant que par là le pays aura, ce terme expiré, un fond certain, et perpétuel pour la meilleure partie de la subsistance des familles dont il sera chargé. Mon but principal est en cecy de peupler le voisinage de Québec de bon nombre de gens capables de contribuer à sa défense sans que le Roy en ait aucun à sa solde.[1] Je pratiqueray autant que je pourray cette mesme économie dans tous les endroits où je feray des bourgs, villages et hameaux, mélangeant ainsy les soldats et les habitans pour qu'ils puissent s'entre-instruire de la culture de la terre et s'entre-secourir au besoin.

Je ne sçay pas comme je suis avec les Pères Jésuites depuis que je leur ay fait perdre l'espérance, qu'ils avoient que la

[1] This idea of military colonisation was elaborated by Talon in his *Projets de réglemens qui semblent être utiles en Canada*, January 24, 1667 (see above, pp. 22–26).

Seigneurie des terres que j'ay employées à former ces villages, tourneraient à leur profit,[1] mais je sçay qu'on m'assure qu'ils en ont mal au cœur. Cependant ils ont la prudence de n'en rien témoigner. Ils avoient en leurs papiers un ancien contract de concession de deux lieues de front sur quatre lieues de profondeur au sud, et vis-à-vis de l'Isle de Montréal. Ils m'ont demandé permission de cultiver cette terre, et d'y former un establissement pour eux.[2]

Je la leur ay accordée après en avoir communiqué avec M. de Courcelle, mais sous le bon plaisir du Roy et à condition qu'ils obtiendraient sur ce que j'ay fait l'agrément de Sa Majesté. Il dépend de vous, Monseigneur, de la leur faire donner ce que j'estime que vous pourriez sans blesser les intérests du Roy, si l'estendue ne vous paroist trop grande, les obligeant cependant à prendre des lettres patentes de Sa Majesté à cause de l'hospice qu'ils veulent y bastir. . . .

TALON.

[1] The seigniory of Notre Dame des Anges, upon which Talon had established his three villages of Bourg-Royal, Bourg-la-Reine, and Bourg Talon, had been granted to the Jesuits in 1626 by the Duc de Ventadour, viceroy of New France (see *Titres des Seigneuries*, 53). As the Jesuits had, however, during the intervening forty-one years, cleared and settled but a small part of the seigniory, which was a very extensive one, extending along the St. Lawrence from the River St. Charles to the River Ste. Marie, Talon now resumed possession in behalf of the king, upon the authority of the royal edict of March 21, 1663 (see above, p. 12), and the arrêt of the Sovereign Council of August 6, 1664 (*Édits et Ordonnances*, II. 18) both of which decreed the reunion to the royal domain of all large grants remaining undeveloped. Against this proceeding the Jesuits entered a strong protest, which, together with Talon's reply, may be found in the appendix to Chapais's *Jean Talon*. On the work of Talon in connection with the establishment of the three villages, see also R. G. Thwaites, *Jesuit Relations and Allied Documents*, L. 244, LI. 170.

[2] The reference here is apparently to the seigniory of La Prairie de la Magdelaine, given to the Jesuits in 1647 by Governor François de Lauzon. See *Titres des Seigneuries*, 75; also *Journal des Jésuites* (Quebec, 1871), 126.

No. 13. Memorandum [from the Minister] asking Talon for a Statement of Land Grants made in Canada [1669].

Correspondance Générale, III. 51.

PRIER Monsieur Talon de vouloir donner un estat des concessions qu'il a accordées aux habitans de Canada.

Une liste des officiers du Conseil Souverain pourvus et à pourvoir afin de leur donner une nomination pour obtenir sur icelle des provisions du Roy.

Une liste des officiers de la justice ordinaire pour donner des provisions à ceux qui n'en auront point.

Le prier de donner son avis sur les concessions et confirmations demandées par M. Chartier[1] comme aussy sur le contenu en son mémoire touchant les pères de la mission.

Et pour les Jésuites—

Parler des concessions non habitées et sçavoir comme l'on y remédiera, et s'il le peut de son autorité ou s'il faut un nouvel arrest.

Le prier de tenir la main à ce que l'on réduise les concessions esloignées de Québec à une lieue carrée, et autour de Québec à ce que les habitans peuvent défricher seulement. . . .

[Unsigned.]

[1] Louis-Théandre Chartier de Lotbinière was a prominent citizen of Quebec who had been appointed acting attorney-general of the colony by Mézy in 1664 (see *Jugements et délibérations du Conseil Souverain*, I. 129). A copy of Chartier's petition does not seem to have been preserved; but his request was granted, and a title-deed, dated November 3, 1672, conveyed to him the fief of Lotbinière (*Titres des Seigneuries*, 315). This grant was subsequently augmented (*Ibid.*, 364, 498). The history of the Lotbinière family, which has from the first been one of the most prominent in French Canada, may be found in François Daniel's *Histoire des grandes familles françaises du Canada* (Montreal, 1867).

No. 14. Despatch of Talon to the Minister, November 11, 1671.

Correspondance Générale, III. 222.

MONSIEUR,—

. . . Par l'examen que j'ay fait faire de l'estat de cette colonie j'ay reconnu que les armes et les outils nécessaires à la culture de la terre manquoient aux habitans pour se mettre en estat de se défendre et de cultiver utilement leurs terres. Il faudroit cent cinquante fusils, cent mousquets, deux caisses de tambour, dix ou douze hallebardes, cent houes et deux cent haches, mais le tout bien choisy. . . .

Fait à Québec ce onze novembre 1671. TALON.

No. 15. Arrêt of the Royal Council providing for the Retrenchment of Land Grants in Canada, June 4, 1672.[1]

Édits et Ordonnances, I. 70–71.

LE roi étant informé que tous ses sujets qui ont passé de l'ancienne en la Nouvelle-France ont obtenu des concessions d'une très grande quantité de terres le long des rivières du

[1] As the edict of March 21, 1663 (printed above, p. 12), did not seem to have roused the colonial landholders sufficiently to the necessity of clearing and cultivating their grants, the king again turned his attention to the subject. The rather drastic provisions of this edict of 1672 were, however, never put into force; for it took some time to prepare the detailed statement which the king asked Talon to submit, and meanwhile the colonial authorities deemed it wise to defer action. When the statement was finally laid before them they issued a new edict, providing not for the retrenchment of one-half the area of each grant, but for a gradual reduction extending over a period of years. This edict is printed below, pp. 43–45.

dit pays, lesquelles ils n'ont pu défricher à cause de la trop grande étendue, ce qui incommode les autres habitans du dit pays, et même empêche que d'autres Français n'y passent pour s'y habituer, ce qui étant entièrement contraire aux intentions de Sa Majesté pour le dit pays et à l'application qu'elle a bien voulu donner depuis huit ou dix années pour augmenter les colonies qui y sont établies, attendu qu'il ne se trouve qu'une partie des terres le long des rivières cultivée, le reste ne l'étant point, et ne le pouvant être à cause de la trop grande étendue des dites concessions et de la foiblesse des propriétaires d'icelles.

À quoi étant nécessaire de pourvoir, Sa Majesté étant en son conseil, a ordonné et ordonne que par le sieur Talon, conseiller en ses conseils, intendant de la justice, police, et finances au dit pays il sera fait une déclaration précise et exacte de la qualité des terres concédées aux principaux habitants du dit pays, du nombre d'arpents ou autre mesure usitée du dit pays qu'elles contiennent sur le bord des rivières et au dedans des terres, du nombre de personnes et de bestiaux propres et employés à la culture et au défrichement d'icelles, en conséquence de laquelle déclaration la moitié des terres qui avoient été concédées auparavant les dix dernières années sera retranchée des concessions et donnée aux particuliers qui se présenteront pour les cultiver et défricher.

Ordonne Sa Majesté que les ordonnances qui seront faites par le dit sieur Talon seront exécutées selon leur forme et teneur, souverainement et en dernier ressort comme jugements de cour supérieure, Sa Majesté lui attribuant pour cet effet toute cour, jurisdiction et connaissance ; ordonne en outre Sa Majesté que le dit sieur Talon donnera les concessions des terres qui auront été ainsi retranchées à de nouveaux habitants, à condition toutefois qu'ils les défricheront entièrement dans les quatre premières années suivantes et consécutives ; autrement et à faute de ce faire, et le dit temps passé, les dites concessions demeureront nulles.

Enjoint Sa Majesté au sieur comte de Frontenac, gouverneur et lieutenant général pour Sa Majesté au dit pays, et aux officiers du conseil souverain d'icelui de tenir la main à l'exécution du présent arrêt, le quel sera exécuté nonobstant opposition et empêchement quelconques.

Fait au conseil d'état du roi, la reine y étant, tenu à Saint-Germain-en-Laye, le quatrième jour de juin mil six cent soixante-et-douze. COLBERT.

No. 16. Title-deed of the Seigniory of Saurel, granted to Pierre de Saurel, Officer of the Carignan-Salières Regiment, October 29, 1672.[1]

Titres des Seigneuries, 141.

JEAN TALON, &c., à tous ceux qui ces présentes lettres verront, salut :

Sa Majesté ayant de tout temps recherché avec le soin et le zèle convenables au juste titre de fils aisné de l'Église les moyens de pousser dans les pays les plus éloignés la propagation de la Foy et la publication de l'Évangile, la gloire de Dieu avec le nom chrétien, fin première et principale de l'establissement de la colonie françoise en Canada, et par accessoire de faire connoître aux parties de la terre les plus éloignées du commerce des hommes sociables la grandeur de son nom et la force de ses armes, et n'ayant pas estimé qu'il y en eût de plus sûres que de composer cette colonie de gens capables de la bien remplir par les qualités de leurs personnes,

[1] This title-deed is typical of all those granted to the officers of the Carignan-Salières regiment (*cf.* above, p. 22, note 2). The deed of every seigniory granted to these officers bears the date October 29, 1672, or November 3, 1672; but the grantees had all obtained possession of their fiefs several years previously. The list of Carignan officers who acquired seigniories in New France may be found in Benjamin Sulte's *Histoire des Canadiens-Français*, IV. 46–50.

l'augmenter par leurs travaux et leur application à la culture des terres, et de la soutenir par une vigoureuse défence contre les insultes et les attaques auxquelles elle pourroit estre exposée dans la suite des temps, a fait passer en ce pays bon nombre de ses fidèles sujets, officiers de ses troupes dans le régiment de Carignan, et autres dont la plupart se conformant aux grands et pieux desseins de Sa Majesté, voulant bien se lier au pays en y formant des terres [des] seigneuries d'une estendue proportionnée à leur force, et le sieur de Saurel, capitaine au régiment de Carignan, nous ayant requis de lui en départir : Nous, en vertu du pouvoir à nous donné et en considération des bons, utiles et louables services qu'il a rendus à Sa Majesté en différents endroits, tant en l'ancienne France que dans la Nouvelle, depuis qu'il y est passé par ordre de Sa Majesté, avons accordé, donné et concédé, accordons, donnons et concédons par ces présentes, au dit sieur de Saurel, la quantité de deux lieues et demie de terre de front, à prendre sur le fleuve St. Laurent sçavoir : une lieue et demie au-delà de la Rivière de Richelieu, sur deux lieues de profondeur si tant il y a, avec les Isles St. Ignace, Isles Rondes et Isles de Grâce, ainsi nommées dans notre carte figurative,[1] pour jouir de la dite terre en fief, seigneurie et justice, luy, ses hoirs et ayans cause, à la charge de la foy et hommage que le dit Sieur Saurel, ses hoirs et ayans cause, seront tenus de porter au château St. Louis de Québec, duquel il relèvera aux droits et redevances accoutumés, et au désir de la Coutume de la prévosté et vicomté de Paris, qui sera suivie à cet égard par provision ; et en attendant qu'il en soit ordonné par Sa Majesté, et que les appellations du juge qui pourra estre estably au dit lieu ressortiront pardevant . . . ;[2] à la charge

[1] A further description of the seigniory may be found in Joseph Bouchette's *Topographical Description of the Province of Lower Canada* (London, 1815), 219–226. See also Catalogne's report, below, p. 116.

[2] It was the intention of the authorities that all appeals from the decisions of seigniorial judges should be carried before the nearest royal court whenever such should have been established.

qu'il continuera de tenir et faire tenir feu et lieu sur la dite seigneurie, et qu'il stipulera dans les contracts qu'il fera à ses tenanciers qu'ils seront tenus de résider dans l'an et tenir feu et lieu sur les concessions qu'il leur aura accordées ou leur accordera ; et qu'à faute de ce faire, il rentrera de plein droit en possession des dites terres ; que le dit sieur de Saurel conservera les bois de chesnes qui se sera réservée[1] pour faire son principal manoir, même qu'il fera la réserve des dits chesnes dans l'estendue des concessions particulières faites à ses tenanciers qui seront propres à la construction de vaisseaux ; pareillement, qu'il donnera incessament avis au roy ou à nous des mines, minières ou minéraux si aucuns se trouvent dans l'estendue du dit fief, à la charge d'y laisser les chemins et passages nécessaires : le tout sous le bon plaisir de Sa Majesté, de laquelle sera tenu prendre la confirmation des présentes dans un an du jour d'icelles.

En témoin de quoy nous avons signé ces présentes, à icelles fait apposer le cachet de nos armes, et contresigner par notre secrétaire.

À Québec, ce vingt-neuvième octobre mil six cent soixante-et-douze. TALON.

No. 17. Memoir prepared by Talon, at the King's Request, on his Return to Paris, March 9, 1673.

Correspondance Générale, IV. 94.

. . . M. de Buterné,[2] jeune gentilhomme de bonne naissance, qui a desjà fait un voyage en Canada pour en reconnoistre et l'air et la situation désire y repasser avec tout son bien pour

[1] That is, *qu'il se réservera.*

[2] This name does not appear in any of the records of New France. The request does not appear to have been granted by the king.

s'y establir pour toujours. Il demande une concession dans la rivière de Richelieu avec titre de baronnie et par un mémoire qu'il m'a donné quelques grâces pour le fret de ses meubles et denrées et le passage de douze hommes. J'estime qu'avec le bien qu'il paroist avoir il peut contribuer à l'avancement de la colonie.

M. l'Abbé de Queylus[1] persiste dans le dessein de faire l'établissement de l'hospital qu'il m'a cy-devant fait proposer au Roy en faveur des enfans sauvages vieilards et invalides qu'il recueilleroit à Montréal et pour ce m'a remis des mémoires que je juge raisonables en la meilleure partie. Si vous voulez, Monseigneur, je les réduray à leurs principaux chefs et je les mettray dans le portefeuille que je vous prépare, et cependant j'apprendray si je l'entretiendray dans ce dessein avec espérance de succès.

Des Basques m'ont fait parler par un capitaine du régiment de Carignan, qui est estably en Canada, pour sçavoir si, voulant s'establir à l'Acadie pour y faire la pesche sédentaire, on leur accorderoit des concessions et quelques privilèges. J'ay demandé leurs mémoires que j'attends cependant. Puis-je Monseigneur faire espérer que le Roy distribuera des terres à ceux qui me feront de pareilles propositions.

Le Sr. de Laubia, capitaine au régiment de Carignan Salières de l'une des six compagnies qui ont esté renvoyées en

[1] Gabriel de Queylus, Abbé de Loc-Dieu, came to Canada in 1657 as the representative of the Seminary of St. Sulpice at Paris, this institution having been granted the fief of the Island of Montreal in 1640 (*Titres des Seigneuries*, 365). Queylus founded the Seminary of St. Sulpice at Montreal and became its first superior. His stay in Canada at this time was marked by an unseemly quarrel with Bishop Laval as to the extent of their respective ecclesiastical jurisdictions (*cf.* Camille de Rochemonteix, *Les Jésuites et la Nouvelle-France au XVII^e siècle*, 3 vols., Paris, 1895–1896). Queylus withdrew to France, but in 1668 returned to Montreal, where he remained three years, departing finally for France in the autumn of 1671. The project of a Sulpitian home for aged and invalid Indians was one which he had very much at heart; but after his return to Paris his health gave way and his plans were never brought to maturity.

Canada en 1670, est venu sur congé de M. de Frontenac pour recevoir son bien, mais ayant trouvé son frère aisné languissant et tirant à sa fin se voit obligé à ne le pas abandonner et demande permission de vendre sa terre de Canada[1] à une personne qui la fera valoir ainsy qu'il feroit luy mesme. Cet officier a non seulement estably sa compagnie sur la concession qui luy a esté faite, mais il s'est formé une terre qui luy a produit à la récolte dernière trois à quatre cent minots de grain, faisant cent sept livres de Paris.

J'estime que cette permission de vendre ne fera qu'un fort bon effet, persuadant en France que le bien qu'on se fait en Canada n'est pas inutile et qu'il donne son fruit partout, puisqu'on trouve des marchands qui en payent le fond.[2] . . .

En 1670 vous fûtes agréable que je fisse travailler à une terre pour M. de Bertelot qui en voulloit faire la despense. J'ay en cela suivy vos intentions et secondé celles du dit S[r] Bertelot de manière que l'Isle Jésus,[3] coste à coste de celle de Montréal, qui n'en est séparée que d'un bras du fleuve St. Laurens, et qui est presque de 20 lieues de contour, s'habitue. Desjà il y a un principal manoir pour le seigneur qui a produit plus de 600 minots de bled en deux années.

Dans cette Isle j'ay distribué sous le bon plaisir du Roy des terres en fief pour y faire des bourgades, villages et hameaux, afin de la fortifier et par elle la teste de toutes les habitations à laquelle elle se trouve, avec celle de Montréal qui regarde particulièrement la descente des Iroquois.

[1] The Sieur de Laubia had received the seigniory of Nicolet, comprising two square leagues of land on the south shore of Lake St. Peter (*Titres des Seigneuries*, 16). De Laubia had gone home to France in 1668, but his disbanded company had been settled upon his seigniory.

[2] The seigniory of Nicolet passed into the hands of Michel Cressé, who in 1680 received a large augmentation of its area (*Ibid.*, 18).

[3] François Berthelot had secured possession of Isle Jésus at Montreal by a deed which had been passed to him, November 7, 1672, by Père Dablon on behalf of the Jesuits, who up to this time had included the island within their holdings at Montreal (*Ibid.*, 447).

M. Berthelot est dans le dessein d'y faire passer des hommes de travail pour l'augmenter;

Un prestre pour y administrer les sacremens auquel il donnera pension jusques à ce qu'il y'ait une cure fondée ou par le produit des dismes une subsistance convenable au sacerdoce.

Et employer à l'augmentation de cette terre vingt mil livres outre la première dépense qu'il a faite.

Il demande que la concession qui luy en a esté faite luy soit confirmée et le titre de baronnie accordé ainsy que vous avez fait espérer de la part du Roy.[1] . . . TALON.

PARIS, *le* 9 *mars* 1673.

No. 18. Despatch of Governor Frontenac[2] to the Minister regarding a Petition of the Jesuits for an Augmentation of their Seigniory of La Prairie de la Magdelaine at Montreal, November 14, 1674.

Correspondance Générale, IV. 206.

. . . Le P. Supérieur des Jésuites d'icy m'a demandé depuis peu de jours une augmentation de terre d'environ une lieue et demie de front pour ajouster à leur habitation de la

[1] This request was not granted; but on April 24, 1675, Berthelot exchanged Isle Jésus with Bishop Laval for the latter's seigniory of the Island of Orleans, below Quebec (*Titres des Seigneuries*, 447), and in the year following this seigniory was raised to the rank of a countship, and Berthelot became the Comte de St. Laurent.

[2] Louis de Buade, Comte de Frontenac, appointed governor and lieutenant-general of New France by a commission dated April 7, 1672 (*Édits et Ordonnances*, III. 40–41). Frontenac served two terms, 1672–1682 and 1689–1698. The best biographies of this ablest of the French governors are Henri Lorin's *Le Comte de Frontenac* (Paris, 1895) and Francis Parkman's *Count Frontenac and New France under Louis XIV.* (Boston, 1887).

prairie de la Magdelaine,[1] qui en a près de trois, et qui est une des plus belles de tout le pays. Il allègue pour prétexte qu'ils n'y ont pas assez de terres à blé pour les sauvages qui viennent s'y habituer.[2] Mais comme leur véritable raison est, je croy, qu'ils ne veulent point avoir de voisin qui les éclaire de près, et qu'ayant une quantité innombrable de terres en ce pays celle-la accommoderoit mieux de bons habitans chargés de famille et d'enfans dejà grands qui me les demandent, je les ay remis à cet esté que je monterai à Montréal afin d'avoir le temps de recevoir vos ordres là dessus et de vous en tenir averty en cas qu'ils s'addressassent à vous pour cela, ou à M^rs^. de la Compagnie. . . .

FRONTENAC.

À QUÉBEC, *ce* 14 *novembre* 1674.

[1] The tract of land on the south shore of the River St. Lawrence near Montreal, known as La Prairie de la Magdelaine, had been granted in frankalmoign to the Jesuits in 1647 by Governor François de Lauzon on behalf of the Company of One Hundred Associates, in order, as the title reads, "that the Company may be participating in their prayers and holy sacrifices" (*Titres des Seigneuries*, 75). The request for an augmentation was eventually granted by the king (see *Lettre du roy à M. de Frontenac*, April 29, 1680, printed in *Collection de manuscrits . . . relatifs à la Nouvelle-France*, I. 274); and Governor Frontenac and the intendant, Duchesneau, forthwith issued a title-deed adding a tract one-and-one-half by two leagues in area to the Jesuit fief of La Prairie de la Magdelaine. See *Titres des Seigneuries*, 74 (October 31, 1680).

[2] The *Journal des Jésuites* (p. 361) mentions that in 1668 more than forty land grants had been made in La Prairie de la Magdelaine. It is entirely probable that the Jesuits desired the additional lands in order that they might make grants to the Indians, in the hope of inducing them to settle in the vicinity and thus make La Prairie a second Sillery. On this policy of settling the savages upon lands near the towns of Quebec and Montreal, see Parkman, *The Jesuits in North America*, Vol. II.

No. 19. Royal Arrêt empowering the Governor and Intendant jointly to make Land Grants in Canada, May 20, 1676.

Édits et Ordonnances, I. 89–90.

Louis, par la grâce de Dieu, roi de France et de Navarre, à nos chers et bien-amez les sieurs comte de Frontenac, notre lieutenant-général en Canada ou Nouvelle-France, et Du Chesneau, intendant de la justice, police et finances du dit pays, salut:

Étant nécessaire de pourvoir à la concession des nouvelles terres aux habitans actuellement demeurans au dit pays, ou ceux qui pourront s'y transporter de notre part pour s'y habituer, nous vous avons donné et donnons pouvoir par ces présentes, signées de notre main, conjointement[1] pour donner les concessions des terres tant aux anciens habitans du dit pays qu'à ceux qui s'y viendront habituer de nouveau, à condition que les dites concessions nous seront représentées dans l'année de leur date pour être confirmées, autrement et à faute de ce faire, le dit tems passé, nous les déclarons dès à présent nulles.[2] Voulons de plus que les dites concessions ne soient accordées qu'à condition d'en défricher les terres et les mettre en valeur dans les six années prochaines et consécutives, autrement elles

[1] Since 1666 practically all seigniorial grants had been made by the intendant alone (see above, p. 21); but the present arrêt clearly contemplated that henceforth all grants should be made by the governor and intendant jointly. Nevertheless, the two officials in some cases made grants separately (for examples, see *Titres des Seigneuries*, 130, 374). In some of his despatches the intendant gives his reasons for this departure from the strict observance of the royal orders (see below, pp. 47, 51).

[2] This condition was, however, frequently omitted. When it was inserted, the forfeiture of a seigniory at the expiration of the six years was rarely insisted upon, even if the seignior had accomplished little or nothing in the way of improving his grant. This point is further discussed in Munro's *Seigniorial System in Canada*, chap. iii..

demeureront nulles : et que vous ne les pourrez accorder que de proche en proche et contigues aux concessions qui ont été faites ci-devant, et qui sont défrichées.[1]

De ce faire vous donnons pouvoir et mandement spécial : et afin que ce soit chose ferme et stable à toujours, nous avons fait mettre notre scel à ces présentes.

Donné au camp de Heurtebise, près Valenciennes, le vingtième jour de mai, l'an de grâce, mil six cent soixante-seize, et de notre règne le trente-quatrième.

Louis.

No. 20. Instructions [from Colbert][2] to Duchesneau[3] as to the Necessity of strictly Enforcing the Royal Orders in regard to the Clearing of Seigniories, May 15, 1678.

Correspondance Générale, IV. 304.

. . . L'ordonnance que vous avez donné sur le fait du défrichement des terres, n'a aucun rapport avec les arrests du Conseil qui ont esté donnés sur ce même sujet, et je vous dis

[1] Very little attention seems to have been paid to this requirement, for during the next quarter-century many seigniories were granted in out-of-the-way places.

[2] Jean-Baptiste Colbert, born at Rheims in 1619, was trained in the French civil service under Mazarin, and on the death of the latter became chief minister of state. During his tenure of office Colbert took a marked interest in the affairs of the French colonies, more particularly in all matters pertaining to their commercial development. A large portion of his correspondence and memoranda has been printed in Pierre Clément's *Lettres, instructions, et mémoires de Colbert* (7 vols., Paris, 1861–1870). See also the same writer's *Histoire de Colbert et de son administration* (2 vols., Paris, 1874).

[3] Jacques Duchesneau, commissioned intendant of New France on June 5, 1675. His commission may be found in *Édits et Ordonnances*, III. 42–43. The seven years during which Duchesneau held his office were marked by a bitter personal quarrel with Governor Frontenac. In 1682 the king recalled both officials.

encore, sur ce point, que votre pouvoir ne s'estend qu'à faire exécuter les arrêts du Conseil, et nullement à rendre des ordonnances de votre chef, et pour vous expliquer encore plus clairement ce qui regarde le défrichement, l'arrest du Conseil du 4 juin 1675,[1] que vous avez porté vous même en Canada, ordonne que vous dresserez procès verbal de la qualité des terres concédées, du nombre d'arpens, ou autres mesures usités au dit pays qu'elles contiennent, du nombre de personnes et de bestiaux propres et employés à la culture et au défrichement d'icelles, et qu'en conséquence la moitié des terres qui avoient esté concédées avant les dix dernières années, et qui ne se trouveront défrichées et cultivées en terres labourables ou en prés, sera retranchée des concessions et donnée aux particuliers qui se présenteront pour les cultiver et les défricher; et vos ordonnances des 9 février, 25 may et 30 octobre 1676[2] portent que les propriétaires possesseurs des fiefs et seigneuries les feront défricher, et habituer dans un an du jour de la date, ce qui non seulement n'est pas conforme, mais même change entièrement la disposition du dit arrest, de l'inexécution duquel vous devez rendre compte. . . .

[Unsigned.]

No. 21. Royal Edict ordering the Retrenchment of Uncleared Concessions, May 9, 1679.

Édits et Ordonnances, I. 233–234.

Vu par le roi étant en son conseil, l'arrêt en icelui le quatrième juin 1675, portant que par le Sieur Duchesneau, conseiller en ses conseils, intendant de la justice, police, et finances en Canada, il sera fait une déclaration précise et exacte de la qualité des terres concedées aux principaux habi-

[1] See *Édits et Ordonnances*, I. 81–82. [2] These arrêts are not printed.

tans du pays, et du nombre d'arpens ou autre mesure y usitée qu'elles contiennent, en conséquence de laquelle déclaration la moitié des terres qui avoient été concédées auparavant les dix dernières années, et qui ne se trouveront défrichées et cultivées en terres laborables ou en prés, sera retranchée des concessions et donnée aux particuliers qui se présenteront pour les défricher et cultiver, la déclaration faite en conséquence par le dit Sieur Duchesneau, contenant l'étendue de chacune concession et le nombre d'arpents qui en est défriché et habité, par laquelle il paroît que ces concessions sont d'une si grande étendue que la plus grande partie est demeurée inutile aux propriétaires, faute d'hommes et de bestiaux pour les défricher et mettre en valeur : et Sa Majesté considérant que les terres qui restent à concéder dans le dit pays sont les moins commodes et plus difficiles à cultiver par leur situation et éloignement des rivières navigables, en sorte que ceux de ses sujets qui passent au dit pays perdent la pensée d'y demeurer et s'y établir par cette seule raison, ce qui est très préjudiciable au bien et à l'augmentation de cette colonie : à quoi étant nécessaire de pourvoir, Sa Majesté étant en son conseil a ordonné et ordonne que l'arrêt rendu en icelui le quatrième juin 1675 sera exécuté selon sa forme et teneur, et en conséquence déclare le quart des terres concédées avant l'année mil six cent soixante-cinq, qui ne sont pas encore défrichées et cultivées dès à présent, retranché aux propriétaires et possesseurs d'icelles.

Ordonne de plus Sa Majesté qu'à l'avenir il sera pris chacune année, à commencer l'année prochaine mil six cent quatre-vingt, la vingtième partie des dites concessions qui ne se trouveront défrichées, pour être distribuée aux sujets de Sa Majesté, habitans du dit pays qui sont en état de les cultiver, ou aux François qui passeront au dit pays pour s'y habituer.

Enjoint Sa Majesté au Sieur comte de Frontenac, gouverneur et lieutenant-général, et au dit Sieur Duchesneau, de tenir la main a l'exécution du présent arrêt, et de procéder à la distribution et nouvelle concession des dites terres, suivant

le pouvoir à eux donné par lettres-patentes du vingtième mai 1676.[1]

Fait au conseil d'état du roi, Sa Majesté y étant, tenu à Saint-Germain-en-Laye, le neuvième jour de mai mil six cent soixante-dix-neuf. COLBERT.

No. 22. Despatch of Duchesneau to the Minister regarding the Progress of the Seigniorial System, October 1, 1679.

Correspondance Générale, V. 30.

MONSEIGNEUR,—

. . . Pour ce qui est Monseigneur d'avoir donné des concessions depuis que les volontés du Roy m'ont esté conues par ses lettres du 20^e^ may 1676,[2] et que je n'ay reçues que le 9^e^ septembre ensuivant, non seulement je ne l'ai pas fait, mais c'est Monsieur le Gouverneur qui en a donné sans mon sçavoir aux nommés Soullard, et Laprairye, habitans de ce pays, des emplacements dans la ville de Québec,[3] et deux concessions en fief, l'une au nommé Langlois,[4] garçon, fils d'un charpentier, et qui exercoit ce métier, luy mesme, de deux lieues de front sur pareille profondeur; et l'autre aussi en fief, au nommé Despré,[5] garçon travailleur, contenant douze arpens, sur une grande profondeur, sans les autres que je ne sçay pas.

Et quoique j'eusse quelque sujet de croire, la première année que j'arrivai en ce pays, que je pouvois donner seul des

[1] Above, p. 41. [2] Printed above, pp. 41–42.

[3] These were *en censive* grants such as were usually made within the town limits.

[4] Noël Langlois received the seigniory of Port Joli on May 25, 1677. See *Titres des Seigneuries*, 130; *cf.* also below, p. 51.

[5] There seems to be no record of this grant.

concessions, par ce que Monsieur Tallon, en avoit usé ainsi, et que je n'avois point d'ordre de vous, Monseigneur, qui me le défendist, je n'en ay point voulu accorder. Il est seulement vray, qu'avant que les ordres du Roy et les vostres me fussent conus, les 13e et 14e aoust de l'année 1676 m'ayant esté rapportés deux billets de Monsieur Tallon, de luy signés, l'un par le Sieur De Varrennes [1] de l'année 1670, au sujet du fief du Tremblay, contenant vingt-huit arpents de front, et deux lieues de profondeur, portant promesse de luy en donner titre de concession; et l'autre du xe janvier 1668, par la veuve Poulain, pour le fief de Saint Maurice,[2] consistant en une lieue de terre de front, sur deux lieues de profondeur, portant aussi promesse de luy en donner titre. En vertu desquels billets, les dits Sieur De Varennes, et ve Poulain, estoient entrés en possession, et avoient desjà fait de grandes despenses. Je confirmai sous le bon plaisir du Roy: ce à quoy Monsieur Tallon s'estoit engagé. J'ay de plus, une seule fois, dans ce mesme temps, le 13e du dit mois d'aoust 1676 explicqué, une difficulté pour deux Isles, qui estoient en contestation, entre les sieurs De Varennes et Dugué.[3]

Et encore, avant la réception des ordres du Roy, et des vostres, à l'esgard de la terre du Sault: En considération des Iroquois que les pères jésuites ont ramassés en ce lieu, en fort grand nombre, par la sollicitation de Monsieur Tallon, lesquels estant parmy nous comme autant d'ostages, ont empesché jusques à présent que nous n'ayons eu la guerre avec ceux de leur nation, et c'est dont tous les Français de ce pays conviennent, j'ay seullement donné le 30 juillet 1676, une assurance en ces termes: nous avons permis au père Frémin Jésuite, en

[1] See below, p. 110, note 2. [2] *Titres des Seigneuries*, 154.

[3] The title-deeds of the seigniories of Varennes and Isle Ste. Thérèse, given respectively to René Gaultier de Varennes and Sidrac Dugué, were not clear as to the ownership of the two neighbouring islands in the St. Lawrence. The islands were ultimately adjudged, however, to be the property of Varennes. See also Catalogne's report, below, p. 112.

considération des sauvages, de faire travailler sur l'estendue de deux lieues de terre de front, à commencer à une pointe, qui est vis à vis les rapides Sainct Louis, en montant le long du Lac, sur pareille profondeur, avec deux Isles, Islets et battures qui se trouvent au-devant, promettant de luy faire expédier contract en forme, lorsqu'il aura plu au Roy nous en donner le pouvoir, ce que je n'ay pas fait.

Depuis que j'ay reçu les ordres du Roy, il m'est seulement arrivé, que le 18e aoust 1677, recevant une déclaration du nommé Josselin, marchand, habitant de ce pays d'une maison sise dans la ville de Québec, qu'il avait fait bastir sur cinquante pieds de longueur, quoyqu'il ne luy en appartient que vingt. Cette maison estant presque faite, et ne pouvant en ordonner la démolition, sans le ruiner, je luy ai accordé sous le bon plaisir du Roy, les dits trente pieds, qui n'estoient concedés à personne. Voilà, Monseigneur, la vérité de tout ce que j'ay fait.

Si dans les contracts que vous avez vus, des concessions, que Monsieur le Gouverneur et moy avons accordées conjoinctement, vous avez remarqué qu'ils n'estoient signés que de moy,[1] ne m'en attribuez pas, s'il vous plaist, la faute, puisque Monsieur le Gouverneur a voulu que nous les donnassions séparément, parcequ'il a cru, qu'il ne seroit pas de sa dignité que je fusse joinct dans un mesme titre, avec luy.[2] Aussi, dans la pensée que j'ai eue, qu'il vous envoyoit les contracts qu'il faisoit expédier, comme je le faisois de mon costé, je n'aurois jamais pu me persuader qu'il prist avantage de cette manière, dont il avoit voulu qu'on en usast, pour m'accuser, d'une désobéissance criminelle. Cela n'arrivera plus, Monseig-

[1] For example, the title-deed of the seigniory of Isles-Mingan, March 10, 1679 (*Titres des Seigneuries*, 380).

[2] Those who are familiar with the history of the relations between the governor and the intendant at this time will not need to be instructed as to the value which should be placed upon this explanation. The despatch bears throughout rather palpable traces of the personal animosity of the writer.

neur, puisque je le supliée, que doresnavant, nous n'expédions ensemble qu'un mesme contract, et qu'il veuille bien, que nous fassions rapporter tous les autres, pour les mettre dans cet ordre.

Je vous demande pardon, Monseigneur, de vous avoir tant parlé sur mon sujet, ce que je n'aurais pas fait, s'il ne se fust agy de me justifier, de ce qui me pouvoit faire passer, dans vostre esprit, pour un extravagant, un présomptueux, et un désobéissant aux commandements de Sa Majesté et aux vostres. Il ne m'arrivera jamais, Monseigneur, de vous fatiguer, sur ce qui me concernera, estant absolument résolu de souffrir tout ce qui me viendra de la part de Monsieur le Gouverneur, de suivre ponctuellement les ordres que vous me donnez, touchant ma conduicte dans le conseil, d'entrer et de me soumettre, à tous ses sentiments, quand ils ne seront pas contraires aux arrêts, déclarations, édits, et ordonnances du Roy et à la justice, que vous voulez que je rende, par ce que je crois que c'est vostre intention, et que je dois plustost mourir que de rien faire qui y préjudicie.

Je remettrai jusques au depart des derniers vaisseaux, comme j'ay desjà eu l'honneur de vous le dire, Monseigneur, de vous rendre un compte fidèle, et sincère, de tout ce qui se passe en ce pays, et du véritable estat, dans lequel il est, de toutes mes vues sur les avantages qu'on luy peut procurer, et je continuerai avec regret de vous faire connoistre les dommages qui y sont causés, par la rébellion des coureurs de bois, aux ordonnances de Sa Majesté, qui est enfin, venue à un tel excès, que le remède me paroist difficile. . . .

DU CHESNEAU.

QUÉBEC, *ce* 1er *octobre* 1679.

No. 23. Despatch of Duchesneau to the Minister concerning the Progress of Agriculture, November 10, 1679.[1]

Correspondance Générale, V. 40.

MONSEIGNEUR,

. . . La plus grande partie des officiers du conseil souverain et des autres justices inférieures quoyqu'ils dussent s'appliquer principalement à leur mestier et à s'en instruire en sont empeschés par leur pauvreté, les gages qu'on leur accorde estant trop modiques, ce qui fait qu'ils s'occupent bien plus tost au commerce et à faire valoir leurs habitations.

Plusieurs des gentilshommes, officiers réformés, et des seigneurs des terres, comme ils s'accoutument à ce qu'on appelle en France la vie des gentilshommes de campagne, qu'ils ont pratiquée eux mesme ou qu'ils ont vu pratiquer, font leur plus grande occupation de la chasse et de la pesche, et parceque pour leurs vivres et pour leur habillement et celuy de leurs femmes et de leurs enfans ils ne peuvent se passer de si peu de choses que les simples habitans et qu'ils ne s'appliquent pas entièrement au ménage et à faire valoir leurs terres, ils se meslent du commerce, s'endettent de tous costés excitent leurs jeunes habitans de courir les bois, et y envoient leurs enfans afin de traiter des pelleteries dans les habitations

[1] This despatch, from which only a few extracts are here given, is a lengthy and interesting one, dealing with a variety of matters, and more particularly with various causes of tardy colonial growth. Duchesneau strongly urges that some measures be taken to keep the people on the land and prevent the constant exodus to the wilderness. Too much of the colonial energy is, he thinks, expended on the Indian trade, and too little given to the cultivation of the soil. Only when the coureurs-de-bois return from the wilderness and apply themselves to the defence and cultivation of the land, he declares, will the colony find itself in a position to carry on a trade in food-stuffs with France and with the other French colonies.

sauvages et dans la profondeur des bois au préjudice des défences de Sa Majesté; et avec tout cela ils sont dans une grande misère.

Les marchands, habitans de ce pays, excepté cinq ou six au plus, sont dans la pauvreté; les artisans, si on en oste un petit nombre avec quelques cabarettiers, sont de mesme, parce que la vanité des femmes parmy lesquelles il n'y a icy aucune distinction, et la débauche des hommes consomment tout ce qu'ils peuvent amasser, de sorte que leurs familles ne subsistent qu'avec grande peine et ne s'establissent pas.

Quant aux laboureurs qui s'appliquent avec assiduité à la terre, non seulement ils subsistent fort honestement et sont, sans comparison, plus heureux que ce qu'on nomme en France les bons paysans, mais comme les esprits de ce pays prennent aisément l'essort et qu'ils ont beaucoup de l'humeur sauvage qui est légère, inconstante et ennemie d'un travail assidu, voyant la liberté qu'on prend si hardiment de courir les bois, ils se débauchent avec les autres et vont chercher des pelleteries pour avoir moyen de vivre sans rien faire, et c'est d'où vient que les terres ne se défrischent pas, que les bestiaux ne multiplient point comme ils devraient et qu'on ne peut establir icy aucunes manufactures.

Pour revenir à ceux qui viennent dans ces pays pour y profiter sans s'y establir et qu'on a dit estre les marchands forains, il est sans doubte qu'ils n'ont point d'autre intérest que de raccommoder leurs affaires pour ensuite retourner vivre plus commodément en France avec leurs familles.

Sur tout cela, Monseigneur, vous remarquerez, s'il vous plaist, que parmy tant d'intérests différents, le principal et le général de ceux qui ont choisy ce pays pour y passer leur vie doit estre, quand ils y seront d'une sérieuse réflexion, que la colonie s'establisse par le bon ordre, que les terres se cultivent, les bestiaux s'eslèvent et multiplient, qu'on establisse des manufactures et qu'on attire les sauvages pour faire leurs traites dans les habitations françoises. . . . Nous avons desjà

conféré plusieurs fois, Monseigneur le Gouverneur et moy, pour l'exécution des ordres que vous nous avez donnés pour le retranchement des concessions et le défrischement des terres dont l'arrest a été enregistré au conseil je vous puis assurer que de ma part il sera ponctuellement observé quoyqu'il soit rude aux possesseurs des terres qui ne les ont pas mises en valeur parce qu'ils en ont estés empeschés par les guerres des Iroquois et parcequ'ils ont manqué de monde.

Monsieur le Gouverneur n'a pas voulu que les concessions qu'il nous est ordonné de donner conjointement par les lettres patentes de Sa Majesté du 20e mai 1676[1] fussent accordées par un mesme contrat, parce qu'il ne croit pas qu'il soit de sa dignité d'estre couplé (c'est son mesme mot) avec un Intendant, en sorte, Monseigneur, qu'il faudra donc en user comme on a fait jusques à présent et que nous donnions deux contrats séparés, et quand vous ne les verrez signés que de moy ne croyez pas, s'il vous plaist, que j'aye donné seul les concessions. Je n'en ay jamais accordé que quand on m'a représenté le contrat qu'en avoit expédié Monsieur le Gouverneur. Je luy ay remis entre les mains un extrait de tous ceux que j'ay accordés conjoinctement avec luy, et je n'en ay point donné d'autres. Il m'a aussy donné celuy de ceux qu'il avoit accordés parmy lesquels il en avoit compris qu'il avoit donnés sans ma participation. Il l'a reformé et y a seulement laissé celuy de Noël Langlois[2] qui de bon charpentier est devenu un fainéant, parce qu'ayant une seigneurie il a cru estre devenu gentilhomme ce qui fera dans la suite une famille à charge à la colonie. Je

[1] For the letters-patent to which reference is here made, see above, p. 41 ; *cf.* also above, p. 47.

[2] Noël Langlois, who had come to the colony before 1634 (Tanguay, *Dictionnaire Généalogique*, I. 345), was on May 25, 1677, granted the seigniory of Port Joli, comprising two square leagues along the south shore of the St. Lawrence not far from Quebec, the whole lying between the seigniories of Réaume and Isle St. Jean. The title-deed states that Langlois has "had some work done on the land during the last three years, and has caused the same to be bounded, according to the permission which we granted him at the time" (*Titres des Seigneuries*, 130).

vous envoye, Monseigneur, l'arrest d'enregistrement des dites lettres qui fut fait aussitost que je les reçues.

Pour ce qui est du papier terrier je le rectifierai selon l'ordre que vous m'en donnez et sur l'instruction qui en a esté envoyée dans les provinces du royaume en 1678. Je m'estois arresté sur ce qui m'avoit esté mandé en 1676 par un mémoire séparé de vos despêches, qui me marquoit en propres termes que le procès-verbal que j'avois envoyé contenant les déclarations, que j'avois fait passer devant moy par les détenteurs des héritages, estoit bien ce qu'on appelle ordinairement un terrier, et qu'on le trouvoit assez régulièrement fait, ce qui est cause que j'ay suivy cette forme qu'on avoit approuvée, et si je ne me suis point servy du procureur du Roy c'est à cause qu'il ne me l'estoit point ordonné, et que je voulois esviter la dépence comme il m'estoit expressément commandé.

Il sera aisé de remédier à tous les défauts qu'on y a remarqués, et afin d'esviter les frais je travaillerai tout l'hiver dans cette ville avec le procureur du Roy de la prévosté,[1] et des ce printemps j'irai travailler aux Trois Rivières avec le procureur du Roy de ce lieu. Je n'ay pu obliger les notaires de diminuer leurs salaires et suivant la liberté que vous m'en accordez je ferai recevoir les déclarations par mon secrétaire gratuitement, en prenant les précautions que vous m'ordonnez, d'autant plus qu'on ne peut icy causer la moindre dépence aux habitans qu'on ne les incommode beaucoup.

À l'esgard des fois et hommages[2] c'est une faute que j'ay

[1] A Court of the Prévôté had been first established at Quebec by Champlain; but in December, 1674, the king had suppressed its jurisdiction, and had ordered that for the future all suits should be brought in the first instance before the Sovereign Council (*Édits et Ordonnances*, I. 78). Three years later, however, the Court of the Prévôté at Quebec was re-established, because the Council could not properly handle the large number of minor matters brought before it (*Ibid.*, 90). The *procureur du roi* was the official attorney of this court.

[2] The ceremony of fealty and homage was performed by all seigniors to the royal representative at the Château de St. Louis in Quebec. Performance was required within a reasonable time after a seignior came into possession of his

faite suivant l'usage. Sur cela je vous supplie, Monseigneur, de me faire savoir si le conseil doit obliger les seigneurs de fiefs de la faire derechef et de fournir de nouveau leurs aveux et dénombrements,[1] ce qui leur seroit extrêmement à charge, à cause des voyages et frais que je leur ay espargnés en me transportant sur les lieux, et si pour cette fois seulement vous voudriez valider pour ce regard ce que j'ay fait en corrigeant et réduisant les choses pour les redevances et droits et conditions sur le pied des premières concessions. . . .

DU CHESNEAU.

À QUÉBEC, *ce* 10e *novembre* 1679.

No. 24. Letters-patent creating the Barony of Portneuf in favour of René Robineau, Sieur de Bécancour, March, 1681.[2]

LOUIS, par la grâce de Dieu, roi de France et de Navarre, à tous présents et avenir, salut.

fief, whether this possession resulted from grant, purchase, or inheritance. In France it was also required of all seigniors upon the occasion of the accession to the throne of a new sovereign; but in Canada it was not regularly insisted upon on such occasions. The performance of the ceremony by each seignior was recorded in the *Actes de Foi et Hommage*, abstracts from which have been published in the *Report on Canadian Archives* for the years 1883–1885.

[1] The *aveu et dénombrement* was a plan and detailed statement furnished by each seignior to the royal authorities at Quebec, showing the extent, configuration, and boundaries of his seigniory, setting forth his title to ownership, and stating in detail the progress which he had made in its development. By the terms of the Custom of Paris (Articles VIII., X., XI.), the *aveu et dénombrement* was required within forty days after any mutation in the ownership of a seigniory; but the authorities might call upon the seignior for it at other times as well. These statements were of great service to the governor and intendant in the preparation of their various *mémoires* on the state of the colony. See below, pp. 167–168.

[2] The seigniory of Portneuf was originally granted to Jacques Leneuf de la Poterie (see below, p. 129, note 1). It passed to René Robineau de Bécancour, his son-in-law, who by these letters-patent became Baron de Portneuf. Some details concerning the later history of the barony may be found in F. X. Gatien's *Histoire de la paroisse du Cap Santé* (Quebec, 1884).

Les rois, nos prédécesseurs, ayant connu par une longue expérience, qu'il n'y avait rien de plus digne de leur grandeur, et qu'il était même de leur justice de récompenser ceux de leurs sujets, qui, par leur mérite et leur courage, se sont portés à des actions extraordinaires, pour la gloire, le renom et l'accroissement de leurs états; et non contents de leurs bienfaits, ils les ont encore élevés audessus du commun par des marques d'honneur qui passent à leur postérité, pour exciter leurs autres sujets de suivre leurs exemples et mériter de semblables grâces: en quoi désirant les imiter, savoir faisons que, mettant en considération les grands et imposants services qui nous ont été rendus et à notre état, par défunt Pierre Robineau, vivant trésorier-général de la cavalerie légère de France, et l'un des intéressés en la compagnie qui fut faite par l'ordre du feu roi notre très honoré seigneur et père, que Dieu absolve, dont le feu Sieur cardinal duc de Richelieu était le chef, pour peupler les îles de la Nouvelle-France dite du Canada, lequel, par ses soins et diligences, et les grandes dépenses qu'il a faites pour le dit établissement, a beaucoup contribué à l'accroissement et à la perfection d'icelui, lors duquel il fut donné aux intéressés en la dite compagnie, tant pour eux que leurs successeurs et ayants cause, dans le dit pays de la Nouvelle-France dite Canada, en toute propriété, justice et seigneurie, à la réserve seulement du ressort, foi et hommage, une couronne d'or à chaque mutation de rois, et la provision des officiers de la justice souveraine, ainsi qu'il est plus amplement porté par des articles qui en furent dressés et arrêtés le 6^{e} août 1628, au désir desquels le dit Sieur Robineau, ainsi que les autres intéressés en la dite compagnie, commença à s'appliquer à faire travailler au défrichement des terres, et icelles planter et cultiver à grands frais et dépens, en sorte que les peuples que la compagnie y faisait passer, commençaient à y goûter les fruits de leurs travaux, et trouver moyen d'y subsister heureusement, lorsque le dit Sieur Robineau étant avancé en âge, fit remplir dignement sa place de la personne

de René Robineau, écuyer, Sieur de Bécancour, chevalier de notre ordre de St. Michel, son fils, lequel suivant les traces de son père, après nous avoir servi dans nos armées deux campagnes en qualité d'enseigne dans le régiment de Turenne, passa aux dites îles pour y faire travailler à la continuation du dit établissement, si bien et heureusement commencé, qu'il y possède à présent deux terres considérables savoir le fief terre, et seigneurie de portneuf, consistent en manoir seigneurial décoré de toutes les marques de noblesse et seigneurie, accompagné d'une belle chapelle où se célèbre le service divin, tant pour le dit Sieur de Bécancour et sa famille, domestiques, qu'habitants de la dite seigneurie, de plusieurs autres bâtiments, pour le logement de ses domestiques, chevaux et équipages, et autres choses nécessaires pour les commodités de la vie, à côté desquels est une basse-cour, et les bâtiments qui sont nécessaires, comme étables, granges, parc, jardins, bois, moulins, et une quantité de terres bien cultivées, qui produisent un revenu considérable, en outre il possède encore, à trente lieues du dit Portneuf, une autre terre et seigneurie appelée les îles Bouchard, de grande étendue, et plusieurs belles dépendances, possessions et héritages, bien cultivés, auxquels appartiennent les droits de moyenne et basse justice, à laquelle il fait travailler pour la bâtir et embellir, ces dites deux terres et seigneuries étant de présent en si bon état, que le dit Sieur de Bécancour n'a pas fait de difficulté de céder au Sieur François Robineau, écuyer, Sieur de Fortelle, son frère aîné, chevalier de notre ordre de St. Michel, et notre conseiller et maître-d'hôtel ordinaire, qui a pareillement beaucoup contribué au dit établissement, plusieurs grands avantages qu'il avait dans notre royaume pour faire son habitation ordinaire au dit pays de la Nouvelle-France, en ses dites terres et seigneuries de Portneuf et des îles Bouchard, où il demeure depuis trente-six ans et y vit très honorablement, étant pourvu de la dignité de grand voyer au dit pays, auquel il s'est marié, ayant une nombreuse famille de neuf enfants; le second desquels,

après avoir passé en France et nous avoir servi dans nos armées l'espace de dix années consécutives en qualité de volontaire, et depuis en celle de capitaine de Dragons, après s'être perfectionné dans la profession des armes, il repassa au dit pays de la Nouvelle-France pour y seconder le Sieur de Bécancour, son père.

Le Sieur de Bécancour a eu l'honneur de commander à un camp volant entretenu pour notre service au dit pays, pour le garantir des courses des sauvages ; en sorte que la famille du dit Sieur de Bécancour et les habitations des vassaux et peuples qui habitent ses dites terres, font une des plus agréables parties du pays ; mais d'autant qu'en l'année 1663 les dits intéressés, en reconnaissance du secours que nous leur avons donné pour parvenir au dit établissement, qui était dès lors en nombre, plusieurs de l'un et de l'autre sexe, tant séculiers que prêtres et religieux nous prièrent d'accepter l'acte qu'ils passèrent volontairement, par lequel ils remirent en nos mains la supériorité et domination du dit pays, se réservant seulement les habitations, lequel acte nous fut présenté par le Sieur de Périgny, le dit Sieur de Fortelle et autres, qui passèrent le dit acte, comme ayant pouvoir de toute la compagnie, nous avons cru qu'il était de notre justice, non seulement de décorer la principale terre et habitation du dit Sieur de Bécancour d'un titre d'honneur convenable à sa qualité et mérite, mais encore de donner quelque [marque] de distinction honorable qui passe à sa postérité, et soit un sujet d'une louable émulation, à ses enfants et postérité, d'imiter sa vertu et suivre son exemple.

À ces causes, de notre grâce spéciale, pleine puissance et autorité royale, nous avons créé, érigé, élevé et décoré, créons, érigeons, élevons et décorons, par ces présentes signées de notre main, la dite terre et seigneurie de Portneuf, située en notre dit pays de la Nouvelle-France, dite du Canada, en titre, nom et dignité de baronnie, pour en jouir par le dit Sieur de Bécancour, ses enfants, successeurs, ayants cause, et les descen-

dants d'iceux en légitime mariage, pleinement et paisiblement, relevant de nous à cause de notre couronne, à une seule foi et hommage, aveu et dénombrement requis par les lois de notre royaume et coutumes du dit pays, aux dits titre, nom et dignité de Baronnie, voulons qu'ils se puissent dire, nommer et qualifier tels en tous actes tant en jugement que dehors, qu'ils puissent jouir des droits d'armes, blasons, honneurs, prérogatives, rangs, prééminences en fait de guerre, assemblées de noblesse et autres, ainsi que les autres barons de notre royaume, que les vassaux et autres terriens et revelants de la dite seigneurie de Portneuf, noblement et en roture, les reconnaissent pour barons, leur rendent leurs aveux, dénombrements et déclarations, les cas y échéant en la dite qualité, laquelle nous voulons pareillement être dans les sentences qui seront rendues par leurs officiers en l'administration de la justice sur les dits vassaux et justiciables, le tout en la susdite qualité de Baronnie de Portneuf, sans néanmoins que les dits vassaux soient tenus, à cause du contenu en ces présentes, à autres plus grands droits ni devoirs que ceux qu'ils doivent à présent, ou un changement de ressort ni aux cas royaux . . . et de notre plus ample grâce et autorité que dessus, nous avons permis et octroyé, permettons et octroyons, par ces dites présentes, au dit de Bécancour et ceux de sa famille descendants du dit Pierre Robineau, d'ajouter dans leurs armes et celles de leurs ancêtres qui sont d'azur à la cottise d'or accompagnées de six étoiles, de même une fleur de lys posée sur une surface de . . . telle qu'elle est ici empreinte.

Sy donnons en mandement à nos amés et féaux conseillers, les gens tenant notre conseil souverain en notre pays en la Nouvelle-France dite Canada, que ces présentes ils fassent registrer, et du contenu en icelles jouir et user le dit Sieur de Bécancour, ses enfants, postérité et lignée, successeurs et ayants-cause, pleinement, paisiblement et perpétuellement, cessant et faisant cesser tous troubles et empêchements à ce contraire, car tel est notre plaisir, et afin que ce soit chose

ferme et stable à toujours, nous avons fait mettre notre scel à ces dites présentes.

Donné à Saint-Germain en Laye, au mois de mars de l'an de grâce mil six cent quatre-vingt-un, et de notre règne le XXXVIème. Louis.

No. 25. Despatch [of Duchesneau] to the Minister on the Relation of the Curés to the Seigniors, November 13, 1681.[1]

Correspondance Générale, V. 291.

Monseigneur,—

. . . Vous verrez, Monseigneur, par la lettre circulaire que j'ay escrite aux propriétaires des terres en justice et en fief tant pour eux que pour leurs habitans, qu'après avoir conféré avec Monsieur l'Évesque, comme vous m'ordonnez de le faire, pour tout ce qui regarde le spirituel de ce pays, et pour suivre les intentions du Roy et les vostres qu'on a reduit aux dixmes[2] seules la subsistance d'un curé auquel on a donné l'estendue qu'on a cru nécessaire pour cela, et mesme on a soumis cette estendue au jugement des dits propriétaires et habitans, afin que s'ils croyoient qu'elle fust trop grande on la diminuast, et aussi que si elle ne l'estoit pas assez on l'augmentast.

Cependant, Monseigneur, les propriétaires des fiefs et des seigneuries et les habitans ont représenté que l'estendue estant augmentée les peuples se trouveroient plus abandonnés par ce

[1] The unsigned despatch from which the following extract is taken was evidently written by the intendant Duchesneau to the Marquis de Seignelay. The paper, which is rather lengthy, is taken up for the most part with complaints of the "insults, reproaches, and rudeness" of Governor Frontenac. A translation of the whole document is given in *Documents relating to the Colonial History of New York*, IX. 149–158.

[2] See *Édits et Ordonnances*, I. 231 ; also below, pp. 88–90.

que dans celle qu'on avoit desjà marquée à chacun curé, les habitans qui les composoient n'avoient la messe pour l'ordinaire qu'un dimanche en un mois ou en six semaines, que mesme les dixmes n'augmenteroient pas par une plus grande estendue parce que les habitans estant assistés plus rarement ne déclareroient devoir de dixmes qu'à proportion de l'assistance qu'on leur donneroit, et qu'estant impossible de les affermer [1] par la difficulté de les recueillir sans de grands frais à cause de la situation des lieux, il faudroit s'en rapporter à leur bonne foy.

Les curés, d'autre costé, ont remonstré qu'ils sont desjà surchargés de travail, estant obligés de marcher incessamment, tantost en raquettes sur les neiges pendant l'hiver, et tantost en canot pendant l'esté où ils rament tout le jour, et que si on leur augmentoit leur estendue qui estoit desjà trop grande, ils ne se trouveroient pas capables de fournir à une si grande fatigue.

Cependant, Monseigneur, toutes ces difficultés ne m'ont pas empesché de faire connoistre l'intention de Sa Majesté et la vostre, et Monsieur l'Évesque a renvoyé les prestres dans les lieux qu'ils avoient accoutumé d'assister et leur a ordonné de se contenter des vivres les plus simples, et du seul nécessaire pour leur entretien. Quelques uns des propriétaires des fiefs et des seigneuries ont offert de les nourrir chez eux et ils doivent pourvoir à leur entretien.[2] Mais comme cela se fait volontairement et indépendamment des dixmes on ne peut assurer qu'ils continueront.

Vous me permettrez, s'il vous plaist, Monseigneur, de vous représenter qu'on ne peut prendre de règle certaine sur ce qui se fait en France puisqu'assurément la dépence est bien différente en ce pays. Si je ne craignois point de vous estre

[1] That is, to farm out the privilege of collecting the tithe. On the history of the tithe in New France, see Lareau, *Histoire du droit canadien*, I. chap. xix.

[2] The curé very frequently lived at the seignior's house, which thus became the centre of the religious as well as of the social life of the seigniory. On this practice, see Abbé H. R. Casgrain's interesting little brochure, *Une paroisse canadienne au XVII^e siècle* (Quebec, 1880), especially pp. 40–41.

importun, je vous ferois un détail qui vous persuaderoit de cette vérité. Je me contenterai seulement de vous marquer que le vin qui ne coûte en France que dix livres la barique se vend icy cinquante, soixante et soixante-dix livres, le reste des liqueurs à proportion. Les habits y coûtent le double dont les ecclésiastiques en usent beaucoup à cause de leurs continuels voyages, et la longueur de l'hiver. Les seuls souliers se vendent cent sols ou six livres. Un valet qui ne gagne dans le Royaume que dix, douze, ou quinze escus de gages, en a icy cinquante. Enfin le bois de chauffage qui n'entre presque point en France dans la dépence d'un curé vaut dans les habitations à moins 3 livres et dans Québec cent sols ou 6 livres la corde, et on en consomme extrêmement à cause de la rigueur et de la longueur de l'hiver. Néantmoins, Monseigneur, le Roy et vous serez obéis et je ferai toutes choses pour réduire aux dixmes seules la subsistance des curés comme il m'est commandé.

Comme je ne dois point vous tromper, Monseigneur, je dois vous dire qu'il n'y a point de personnes en ce pays qui puissent non seulement doter une église de trois [*sic*] livres, mais mesme qui la puissent faire bastir solidement à ses dépens. Tous les gens sont icy remplis d'une grande vanité, et il n'y en a pas un qui ne prétende à estre patron,[1] et chacun veut un curé dans sa terre, et tous ces gens-là, un seul excepté, sont fort endettés et dans la dernière pauvreté, et ce seul-là est encore plus pauvre que les autres parce qu'il est dans une sordide avarice. . . .

Il n'y a dans tout le pays que le nombre de 7 églises paroissiales sans compter celle de Québec, dont les murailles soient de pierre, qui sont dans les seigneuries de Monsieur l'Évêque, de Monsieur Berthelot, et des Messieurs du Saint-Sulpice, et dans deux seigneuries particulières, lesquelles ont été bâties de partie des fonds que Sa Majesté a appliqués pour

[1] Down to the end of the seventeenth century, when the seignior built a church at his own expense, he was deemed the patron of the parish and permitted to exercise the right of advowson. See *Édits et Ordonnances*, I. 232, §§ vi.–vii.

ce sujet, des fortes contributions de ces Messieurs et des charités des particuliers. Les autres sont de pièces de bois et de planches qui ont été construites aux dépens des propriétaires des fiefs et des habitans que M. l'Évêque refuse de consacrer parce qu'il dit qu'il est de son devoir et de son obligation de ne point donner la consécration qu'à des bâtiments solides et de durée. . . .

[Unsigned.]

QUÉBEC, *ce* 13^e *novembre* 1681.

No. 26. Royal Arrêt concerning Seigniorial Mills, June 4, 1686.[1]

Édits et Ordonnances, I. 255–256.

LE roi étant en son conseil, ayant été informé que le plupart des seigneurs qui possèdent des fiefs dans son pays de la Nouvelle-France négligent de bâtir des moulins banaux nécessaires pour la subsistance des habitans du dit pays, et voulant pourvoir à un défaut si préjudiciable à l'entretien de la colonie, Sa Majesté étant en son conseil, a ordonné et ordonne que tous les seigneurs qui possèdent des fiefs dans l'étendue du dit pays de la Nouvelle-France seront tenus d'y faire construire des moulins banaux dans le tems d'une année après la publication du présent arrêt, et le dit tems passé, faute par eux d'y avoir satisfait, permet Sa Majesté à tous

[1] Complaints had been frequently sent to the home authorities that the people of the colony were inconvenienced by the lack of facilities for grinding their grain. Private enterprise was not permitted to erect mills in any of the seigniories, for the seigniors possessed this right exclusively. On the other hand, the seigniors in most cases failed to provide the mills because their seigniories were so sparsely settled that there was no profit to be had out of the small toll which they were permitted to take. The decree was therefore designed to force the seigniors either to proceed with the erection of their mills, or to forfeit their banal rights to any individual or individuals who might choose to undertake the erection.

particuliers, de quelque qualité et condition qu'ils soient, de bâtir les dits moulins, leur en attribuant à cette fin le droit de banalité, faisant défenses à toutes personnes de les y troubler.

Enjoint Sa Majesté aux gens tenant le conseil souverain de Québec de tenir la main à l'exécution du présent arrêt, et de le faire enregistrer, publier et afficher où besoin sera.

Fait au conseil d'état du roi, Sa Majesté y étant, tenu à Versailles, le quatrième juin, mil six cent quatre-vingt-six.

COLBERT.

Registrés suivant l'arrêt du dit conseil souverain de ce jour, ouï et ce requérant le procureur général du roi, pour être exécutés selon leur forme et teneur. À Québec, le vingt-unième octobre, mil six cent quatre-vingt-six.[1]

PEUVRET.

L'arrêt ci-à côté a été lu, publié, affiché et registré tant à la prévôté de Québec, qu'aux Trois-Rivières et à Montréal, les 24e et 25e janvier et 15e février 1707, en conséquence d'arrêt rendu en ce conseil le 20e décembre 1706.[2]

DE MONSEIGNAT.

[1] Although this arrêt was received and duly registered by the Sovereign Council at Quebec, it was not promulgated for the information of the people interested until 1707. The probable reason for this delay is given by the intendant Raudot in one of his despatches to the minister (see below, p. 77).

[2] The decree of the Superior Council ordering the immediate promulgation of the royal arrêt may be found in *Édits et Ordonnances*, II. 150.

No. 27. Despatch of Governor Denonville[1] to the Marquis de Seignelay[2] on the Difficulties attending the Cultivation of the Seigniories owing to the Danger of Iroquois Raids, August 10, 1688.

Correspondance Générale, X. 106.

. . . Le party qui a esté pris de faire des forts dans chaque seigneurie pour y réfugier les peuples et les bestiaux est le seul expédient que l'on a pu prendre pour garantir le peuple de sa perte assurée. Mais ce moyen dans la suite ne le peut garantir de sa ruine car il ne peut faire ses champs nourrir ses bestiaux s'il demeure enfermé dans ces réduits et les terres labourables sont si écartées les unes des autres et si environnées de bois qu'à chasque champs il faudrait un corps pour soutenir les travaillans d'une seigneurie de douze habitans, tenant deux lieues d'estendue en longueur si bien que le peuple pendant la guerre est à la veille de sa ruine depuis le premier jour de l'année jusqu'au dernier, car quand sa récolte est faite comme quoy luy peut on faire porter ses bleds et ses fourages à son fort qui en est éloigné d'une lieue et de deux mesme. . . .

Le M. de Denonville.

[1] Jacques-René de Brisay, Marquis de Denonville, appointed governor and lieutenant-general of New France on January 1, 1685 (*Édits et Ordonnances*, III. 48–49). His short term of four years was characterised by an utter lack of ability to grapple with the urgent problems of the colony.

[2] Jean-Baptiste Colbert, Marquis de Seignelay, eldest son of the great minister. He was put in charge of the department of marine in 1676, and held the post until his death in 1690.

No. 28. Extract from the Memoir of a Missionary, 1691.

Correspondance Générale, III. 236.

. . . Nous avons des habitations françoises depuis l'isle du Montréal jusques à huit ou dix lieues au dessous de Québec, mais la pluspart ne sont pas comme celles de France en bourgs et villages, car les maisons estant situées d'ordinaire sur le bord des rivières elles sont bâties de deux en deux arpens, cet à dire qu'il y a un maison à un endroit et qu'à deux arpens de là le long de la rivière il y en aura une autre avec sa grange, c'est de cette façon que la pluspart des habitations du Canada sont faictes, et il n'y a proprement de lieux ramassés que Québec, le Cap les Trois Rivières, la ville du Montréal, et quelques villages que M. Talon a fait faire à la vue de Québec.

Les bords du fleuve au dessous de tout ce pays habité jusques à la mer sont presque inaccessibles surtout du costé du nord. La seule chose avantageuse qui se trouve est la commodité de hâvres qui y sont en grand nombre du costé du nord. Il y en a mesme quelques uns du costé du midy.[1] . . .

[Unsigned.]

[1] This is one of the earliest references to the peculiar distribution of population in the colony. The River St. Lawrence between Quebec and Montreal formed the carotid artery of colonial communication; and from the outset the settlers scattered themselves along its northern shore, obtaining grants of land with a narrow frontage on the stream and a generous depth inland. The authorities did not look with entire favour upon this method of settlement, preferring to have the habitants group their houses into villages in order that they might the more easily defend themselves against Indian attacks. From time to time the minister, in his instructions to the colonial authorities, emphasised the advisability of keeping the population compact. "As the distance of the settlements, the one from the other," wrote Colbert in 1672, "has considerably retarded the increase thereof, and otherwise facilitated the opportunities of the Iroquois for the success of their destructive expeditions,

No. 29. Despatch of Champigny[1] to the Minister as to the Chief Cause of slow Agricultural Progress, November 6, 1695.

Correspondance Générale, XIII. 424.

MONSEIGNEUR,

. . . Le défrichement des bois et la culture des terres dépendent principalement d'arrêter dans la colonie les jeunes gens qui vont traiter dans les pays éloignés dont le nombre a esté très grand les dernières années, sur quoy on ne peut apporter assez d'exactitude et de sévérité, ayant remarqué que ceux qui se sont attachés à l'exploitation des terres, vivent assez commodément, et au contraire presque tous ceux qui n'ont pas discontinué la traite dans les bois, n'ont fait aucune progrès consommant leurs profits durant le séjour qu'ils font dans la colonie depuis leur arrivée jusqu'au retour. . . .

CHAMPIGNY.

the Sieur de Frontenac will examine the practicability of obliging those inhabitants to make contiguous clearings, either by constraining the old colonists to labour at these for a certain time, or by making new grants to the French who will come to settle in the said country" (Colbert to Frontenac, April 7, 1672, in Pierre Clément's *Lettres, instructions, et mémoires de Colbert*, III. pt. ii. 533; English translation in *Documents relating to the Colonial History of New York*, IX. 85–88). With reference to the peculiar shaping of the farms along the northern shore of the St. Lawrence, see also Lord Durham's *Report on the Affairs of British North America* (London, 1839).

[1] Jean Bochart de Champigny, commissioned intendant of New France, April 24, 1686 (*Édits et Ordonnances*, III. 50–51). Champigny arrived at Quebec during September following, and held his post in the colony for the next sixteen years.

No. 30. Letters-patent creating the Barony of Longueuil in favour of Charles Le Moyne, Sieur de Longueuil, January 26, 1700.[1]

Louis, par la grâce de Dieu, roy de France et de Navarre, à tous présents et à venir, salut :

Estant de nostre grandeur et de nostre justice de récompenser ceux qui, par leur mérite et leur courage, se sont portez à des actions de remarque, et mettant en considération les services qui nous ont estés rendus par feu Charles Le Moyne, escuyer, sieur de Longueuil, qui dès l'année 1640, a passé de France en Canada pour s'y establir, où il a donné en toutes les occasions de guerre contre les Iroquois, tant de marques de valeur et de fidélité à notre service, qu'il a esté employé par nos gouverneurs et lieutenants-généraux du dit pays, dans toutes les expéditions militaires, et dans toutes les négociations et traités de paix dont il s'est toujours acquitté à leur contentement.

Et ensuite, Charles Le Moyne, escuyer, son fils, voulant continuer ses services, à l'exemple de son père, aurait servy depuis qu'il a esté capable de porter les armes, soit en France, en qualité de lieutenant dans le régiment Saint-Laurent, soit au Canada, depuis 1687, en la mesme qualité de lieutenant, et en celle de capitaine d'une compagnie du détachement de la marine, dans lequel service il a esté estropié d'un bras, fracassé d'un coup de fusil par les Iroquois, dans le combat qui se donna au lieu nommé Lachine, et sept de ses frères cadets, voulant suivre le mesme exemple, se sont mis dans les armes.

Jacques Le Moyne de Sainte-Hélène, par ses services dans plusieurs occasions, a obtenu une compagnie du détachement

[1] For the order to communicate to the attorney-general these letters-patent, see *Jugements et délibérations du Conseil Souverain*, IV. 492.

de la marine, et après, a esté tué en combattant contre les Anglais, lorsqu'ils assiégèrent Québec, estant à la teste des Canadiens, avec le dit Charles Le Moyne, son frère, qui fut pareillement blessé. Le sieur Le Moyne d'Iberville, capitaine de frégate légère, a servy et commandé, soit par terre dans la prise des forts qui sont au fonds de la baye d'Hudson et dans celle du fort de Corland, soit par mer en la dite qualité de capitaine de frégate légère, dans laquelle il sert encore présentement.

Le sieur Joseph Le Moyne de Bienville fut fait enseigne dans les dites troupes de la marine, et il fut tué par les Iroquois à l'attaque du lieu nommé Repentigny.

Le sr. Louis Le Moyne de Châteauguay, faisant fonctions d'enseigne sous le sieur d'Iberville, son frère, a esté tué à la prise du fort Bourbon, dans la Baye du Nord.

Le Sr. Paul Le Moyne de Maricourt, est enseigne de vaisseau et capitaine d'une compagnie du détachement de la marine, servant d'enseigne, sous le sieur d'Iberville, son frère.

Pour se conformer le dit Charles Le Moyne, fils ainé, à nos desseins dans l'établissement du Canada, il a fait une dépense considérable pour placer des habitants sur la terre et seigneurie de Longueuil, qui contient environ deux lieues sur le fleuve Saint-Laurent, sur trois et demye de profondeur, qui relève de nous, à haute, moyenne et basse justice, dans laquelle il travaille à establir trois paroisses, et pour la conservation des dites habitants pendant la guerre, il a fait bastir à ses frais un fort flanqué de quatre bonnes tours, le tout de pierre et maçonnerie avec un corps de garde, plusieurs grands corps de logis et une très belle église, le tout décoré de toutes les marques de noblesse, avec une belle basse-court, dans laquelle il y a grange, estable, bergerie, colombier, et autres bâtiments, tous de maçonnerie enfermez dans le dit fort, à costé duquel il y a un moulin banal et une belle brasserie aussy de maçonnerie très utile à la colonie, et le tout accompagné d'un nombre considérable de domestiques, chevaux, et esquipages, tous lesquels

bâtiments, lui ont couté plus de soixante mille livres, tellement que la dite seigneurie est à présent une des plus belles de tout le pays, et la seule fortifiée et bastie de cette manière, qui a considérablement contribué à la conservation de tous les habitants des seigneuries voisines, laquelle terre est d'un revenu considérable par les grands défrichements et les excessifs travaux qu'il a fait faire et qu'il continue en y entretenant ordinairement trente ouvriers, ce qu'il est en estat de soutenir et de tenir un rang de distinction appuyé sur le mérite et la vertu.

Pour lesquelles considérations, nous avons cru qu'il estai de notre justice de donner, non seulement à sa terre et seigneurie de Longueuil un titre d'honneur, mais encore à sa personne, quelques marques d'une distinction honorable qui passe à la postérité et qui soit un sujet d'une louable émulation à ses enfants pour les engager à suivre son exemple.

A ces causes, de notre grâce spéciale, pleine puissance et autorité royalle, nous avons créé, érigé, élevé et décoré, créons, érigeons et décorons par ces présentes signées de notre main, la dite terre et seigneurie de Longueuil, scituée en notre pays de Canada, en titre, nom et dignité de baronnie pour en jouir par le dit sieur Charles Le Moyne, ses enfants, successeurs, ayant cause, et les descendants d'iceux en légitime mariage, plainement et paisiblement, relevant de nous à cause de nostre couronne, à une seule foy et hommage, adveu et dénombrement requis par les lois de nostre royaume et coutume de Paris, suivie au dit pays, au dit titre, nom et dignité de baronnie, voulons qu'ils se puissent dire, nommer et qualifier Barons en tous actes tant en jugement que dehors, qu'ils jouissent des droits d'armes, blasons, honneurs, prérogatives, rang, prééminences en faite de guerre, assemblées de noblesse et autres, barons de nostre royaume, que les vassaux, arrières-vassaux, et autres tenants et relevants de la dite seigneurie de Longueuil, noblement et en roture les reconnaissent pour barons, et leur rendent leurs aveus, dénombrements et déclarations leurs cas y eschéant, en la dite qualité, laquelle nous voulons pareillement

estre inserrée dans les sentences qui seront rendues par les officiers en l'administration de la justice sur les dits vassaux et justiciables, le tout en la dite qualité de barons de Longueuil, sans néantmoins que les dits vassaux soient tenus à cause du contenu cy dites présentes à autres plus grands droits et devoirs que ceux dont ils sont chargés à présent, aucun changement de ressort, ny contrevenir aux cas royaux. Se donnons en mandement à nos aimez et féaux conseillers, les gens tenant nostre conseil souverain en nostre pays de Canada, que ces présentes ils fassent registrer et du contenu en icelles jouir et user le dit Sieur Charles Le Moyne, ses enfants, postérité et lignée, successeurs et ayant cause pleinement,[1] paisiblement et perpétuellement, cessant et faisant cesser tous troubles et empêchements à ce contraire, car tel est nostre plaisir.

Et afin que ce soit chose ferme et stable à toujours, nous avons fait mettre nostre scel à ces dites présentes.

Donné à Versailles, le vingt-sixième du mois de janvier, l'an de grâce mil sept cent, et de notre règne, la cinquante-septième. LOUIS,

Et sur le reply : Par le Roy,

PHELYPEAUX.

[1] After the conquest of Canada by Great Britain, it was urged by the descendants of the original Baron de Longueuil that the cession of the colony did not invalidate their right to rank in the nobility conferred by these letters-patent. Accordingly, such of the descendants as were entitled thereto under the French rules of succession assumed the title of Baron de Longueuil. That their claim was perfectly valid was recognised in 1880, when Her Majesty Queen Victoria, acting on the advice of the law officers of the crown, to whom the matter had been referred, gave official recognition to Charles Colmore Grant as seventh baron of Longueuil. This recognition was duly promulgated in the *London Gazette*, December 7, 1880. Further details concerning the history of the barony may be found in Jodoin and Vincent's *Histoire de Longueuil et de famille de Longueuil* (Montreal, 1889); J. M. Le Moine's *Maple Leaves*, 1st Series, 47–53; and Daniel's *Histoire des grandes familles françaises du Canada* (Montreal, 1867), 147–192.

No. 31. Memoir of Jacques Raudot, Intendant,[1] to M. de Pontchartrain, Minister of Marine,[2] on the Growth of Seigniorial Abuses in Canada, November 10, 1707.

Correspondance Générale, XXVI. 7.

MONSEIGNEUR,—

L'esprit d'affaires qui a toujours, comme vous savez, beaucoup plus de subtilité et de chicane, qu'il n'a de vérité et de droiture, a commencé à s'introduire ici depuis quelque temps et augmente tous les jours par ses deux mauvais endroits. Si l'on pouvait les retrancher, *cet esprit pourrait être bon pour l'avenir;* quoique la simplicité dans laquelle on y vivait autrefois fût encore meilleure. Mais pour régler le

[1] Jacques Raudot was appointed intendant of New France on January 1, 1705, and came to Quebec in the following summer. With him came his son, Antoine-Denis Raudot, who was commissioned "to serve as adjoint and to act as intendant in case his father should be ill or otherwise incapacitated, or should be absent from Quebec a distance of more than ten leagues" (see the respective commissions, printed in *Édits et Ordonnances*, III. 60–63). Both of these officials proved themselves men of marked energy and judgment, and the elder Raudot especially did much to advance the economic interests of the colony. An account of their work in Canada is given in Claude-Marie Raudot's *Deux intendants du Canada sous Louis XIV.* (Auxerre, 1854). Jacques Raudot was particularly interested in the working of the seigniorial system, and immediately upon his arrival in the colony appears to have made a study of it. The following despatch sets forth various abuses which the intendant noted, and makes suggestions as to their remedy. A portion of the document is printed in *Correspondance entre le gouvernement français et les gouverneurs et intendants du Canada relative à la tenure seigneuriale* (Quebec, 1853), 6–9.

[2] Louis Phelypeaux, Comte de Pontchartrain, succeeded Seignelay as minister of marine in 1691, and held this office until 1699, when he became chancellor of France. As minister of marine he was succeeded by his son, Jerome Phelypeaux de Pontchartrain, who held the post throughout the first half of the eighteenth century. By his unpardonable neglect and mismanagement of the marine department, the younger Pontchartrain contributed substantially to the loss of the French colonies.

passé, il n'y a rien à mon sens de plus pernicieux que cet esprit et de plus contraire au repos et à la tranquilité qu'il faut donner aux peuples d'une colonie, laquelle ne se soutient et ne s'augmente que par le travail de ses habitans, auxquels il ne faut point donner les occasions de s'en détourner.

Comme il n'y a presque rien dans le commerce qu'ils ont eu entre eux qui se soit fait dans les règles, les notaires, les huissiers, les juges mêmes ayant quasi tous esté ignorants, particulièrement ceux qui ont formé cette colonie, ayant la pluspart travaillé sur leurs terres *sans une sûreté valable de ceux qui les leurs concédaient*, il n'y a point de propriété contre laquelle on ne puisse former un trouble, point de partage sur lequel on ne puisse revenir, point de veuve qu'on ne puisse attaquer pour la rendre commune,[1] point de tuteurs auxquels on ne puisse faire un procès pour les comptes qu'ils ont rendus à leur mineurs. Ce n'est pas que tout ne se soit fait souvent dans la bonne foi, mais l'ignorance et le peu de règles qu'on a observées dans toutes ces affaires a produit tous ces désordres, lesquels en causeraient encore de plus grands si l'on souffrait que ceux qui pourraient se prévaloir de cet esprit, ou de leur chef ou par le conseil des autres intentassent des procès sur se sujet. Il y aurait plus de procès dans ce pays qu'il n'y a de personnes; et comme les juges sont obligés de juger suivant les règles, dont ils commencent à avoir quelque teinture, en les appliquant à des affaires où l'ignorance a fait qu'on n'en a point observé, ils seraient obligés de faire mille injustices, ce que j'aurais cru faire moi-même, Monseigneur, si je m'y estais entièrement assujéti dans plusieurs procès qui sont venus pardevant moi.

Par toutes ces raisons, Monseigneur, je croie que vous ne pourriez pas faire un plus grand bien aux habitans de ce pays que d'obtenir pour eux de Sa Majesté *une déclaration qui assurât la propriété des terres dans toutes leurs consistances* en

[1] That is, "no widow whose dower rights might not be contested."

suivant les lignes qui ont esté tirrées à ceux qui en sont *en possession depuis cinq ans* ou par le travail qu'ils ont fait dessus ou en vertu d'un titre, tel qu'il soit, qui validât aussi tous les partages qui ont esté faits jusqu'à présent, qui fît défense d'intenter aucun procès au sujet des comptes de tutelles et des renonciations que les femmes ont dû faire à la communauté de leurs maris, et qui fît défense aux juges de recevoir les parties à plaider sur ces matières. Enfin, Monseigneur, une déclaration qui validât tous les décrets qui sont intervenus et tous les autres actes et contrats qui ont esté passés jusqu'à présent et les droits que les particuliers ont acquis les uns contre les autres, *excepté dans les matières odieuses, comme les actes et contrats où il y aurait* de l'usure, du dol, de la fraude, et les possessions où il y aurait de la violence ou de l'autorité.

Ce n'est que par là, Monseigneur, que vous pouvez mettre la paix et la tranquillité dans ce pays, lequel sans cette précaution si juste, sera toujours malheureux et hors d'état de pouvoir augmenter, ses habitans qui devraient estre occupés à cultiver leurs terres, estant obligés de les quitter tous les jours pour soutenir souvent de mauvais procès ; je connais ce mal, Monseigneur, par toutes les affaires qui viennent continuellement pardevant moi et dont on peut vous dire que j'ai esté accablé depuis que j'y suis, parce que ces pauvres habitans me trouvant d'un accès facile et n'estant point obligés de mettre la main à la bourse pour plaider, il n'y a guère de jour que je n'aie rendu plusieurs ordonnances sur toutes les affaires qui se sont faites entr'eux avant que j'y arrivasse ; il y en a même qui craignant les procès, viennent m'en demander pour empêcher ceux qu'on pourrait leur faire à l'avenir, l'ignorance où ils sont leur faisant craindre les moindres menaces qui leur sont faites sur ce sujet par d'autres aussi ignorants qu'eux.

J'ai eu l'honneur de vous dire, Monseigneur, que si Sa Majesté leur donne la déclaration que j'ai l'honneur de vous demander pour eux, il est nécessaire pour assurer la propriété des terres à ceux qui les possèdent d'y insérer *en vertu d'un*

titre tel qu'il soit, en y ajoutant même quand il n'y aurait que la simple possession parce qu'on n'a pas observé ici beaucoup de formalités dans les concessions qu'on a faites. Plusieurs habitans ont travaillé sur la parole des seigneurs, d'autres sur de simples billets qui n'exprimaient point les charges de la concession. Il est arrivé de là un grand abus, qui est que ces habitans qui avaient travaillé sans un titre valable, ont esté assujétis à des rentes et à des droits fort onéreux, les seigneurs ne leur voulant donner des contrats qu'a ces conditions, lesquelles ils estoient obligés d'accepter, parce que sans cela ils auraient perdu leurs travaux; cela fait que quasi dans toutes les seigneuries les droits sont différents; les uns payent d'une façon, les autres d'une autre, suivant les différents caractères des seigneurs qui les ont concédés. Ils ont introduit mesme presque dans tous les contrats, *un retrait roturier dont il n'est point parlé dans la Coutume de Paris*,[1] qui est néanmoins celle qui est observée dans ce pays, en stipulant que le seigneur, à chaque vente, pourrait retirer les terres qu'il donne en roture pour le même prix quelles seraient vendues, et ils ont abusé par là du retrait conditionnel[2] dont il est parlé dans cette coutume, qui est quelquefois stipulé dans les contrats de vente où le vendeur se réserve la faculté de reméré, mais il ne se

[1] The *retrait roturier* was the right of the seignior, when a habitant sold his farm, to exercise an option of buying in the land at the sale price. The seigniors apparently sought to exercise this right in order that they might not be defrauded of their proper *lods et ventes*, or mutation fine, which was fixed at one-twelfth of the sale price (*Coutume de Paris*, Article LXXIII.). Without the seigniorial right of prëemption, it was difficult to prevent purchasers of roture lands from tendering their *lods et ventes* upon an alleged price, which might be much below the real value of the farm. The *retrait roturier*, as Raudot points out, was not recognised by the Custom of Paris, but it may be found in several other French coutumes. On this point, see Ernst Glasson, *Précis élémentaire de l'histoire du droit français* (Paris, 1904), 476.

[2] The Custom of Paris recognised the *retrait conditionnel*, or *jus retractum*, whereby a dominant seignior might, within forty days after any sale of a subseigniory, buy it in by tendering the sale price to the purchaser (*Coutume de Paris*, Article XX.). This prevented any attempt to defraud the dominant seignior of his proper quint, or mutation fine, of one-fifth of the sale price.

trouve point establi du seigneur au tenancier ; cette préférence, Monseigneur, gêne mal à propos toutes les ventes.

Il y a des concessions où les chapons[1] qu'on paye aux seigneurs, leur sont payés ou en nature ou en argent au choix du seigneur ; ces chapons sont évalués à trente sols[2] et les chapons ne valent que dix sols ; les seigneurs obligent leurs tenanciers de leur donner de l'argent, ce qui les incommode fort, parce que souvent ils en manquent, car quoique trente sols paraissent peu de chose, c'est beaucoup dans ce pays où l'argent est très-rare, outre qu'il me semble que dans toutes les redevances, quand il y a un choix, il est toujours au profit du redevable, l'argent estant une espèce de peine contre lui quand il n'est pas en état de payer en nature.[3]

Les seigneurs ont encore introduit dans leurs concessions le droit de *four banal*[4] dont les habitans ne peuvent jamais profiter, parce que les habitations estant fort éloignées de la maison du seigneur, où doit estre establi ce four, lequel même

[1] The reference is to the seigniorial *rentes*, which were usually paid in poultry and grain.

[2] This was not always the case. In a deed granting lands within the seigniory of Gaudarville in 1708, the value of each capon paid as seigniorial *rente* was fixed at twenty sous only. See *Lower Canada Reports: Seigniorial Questions*, Vol. A ; and Sir L. H. Lafontaine, *Observations* (Quebec, 1856), 178.

[3] The colonial authorities seem, in the cases that came before them, to have upheld the point that, when dues were fixed alternatively in money or produce, the choice lay with the seignior. There is reason to believe, despite Raudot's plea on behalf of the habitants, that many of the latter made it a point to tender their dues in money when prices were high and in produce when prices were low. The whole question was not definitively settled until 1730, when an ordinance directed that the choice should always lie with the seignior unless the title-deed of the habitant expressly stated the contrary (*Édits et Ordonnances*, II. 512).

[4] The Custom of Paris (Article LXXI.) recognised the seignior's right to erect a seigniorial oven, and, when he had so stipulated in the title-deeds given to his censitaires, to compel the latter to make use of such oven at a fixed toll. This toll was usually one twenty-fourth of the bread. The nature and extent of this right is discussed in a paper on "The Droit de Banalité during the French Régime in Canada," in American Historical Association, *Report*, 1899, I. 205–228.

ne peut pas l'estre dans un endroit plus commode pour eux, dans quelque lieu qu'on le mît, parce que les habitations sont fort éloignées les unes des autres, il ne leur est ne leur serait pas possible d'y porter leur paste dans toutes sortes de saisons ; en hiver même, elle serait gelée avant qu'elle y fût arrivée ; les seigneurs même se trouvent si mal fondés dans ce droit à cause de cette impossibilité qu'ils ne l'exigent pas présentment, mais ils s'en feront un titre à l'avenir pour y contraindre leurs habitans ou les forcer à s'en racheter moyennant une grosse redevance, et par là avoir un droit dont les habitans ne tireront aucun profit ; cela s'appelle, Monseigneur, se donner un titre pour les vexer à l'avenir.

Il y a encore un avantage qui est, à ce que je croy contre les intentions de Sa Majesté, que quelques seigneurs ont pris sur leurs habitans ; pour vous le faire entendre, Monseigneur, il est nécessaire que j'aie l'honneur de vous [faire] observer que les Normands estant venus les premiers dans ce pays, ils y establirent d'abord la Coutume du Vexin ;[1] comme cette Coutume ne les accommodait pas, par rapport à la mouvance dans laquelle ils estaient de Sa Majesté, ils ont demandé dans la suite d'estre soumis à la Coutume de Paris, pour ce qui regarde la d[ite] mouvance, ayant conservé la Coutume du Vexin contre leurs vassaux et leurs tenanciers parce qu'elle leur est plus avantageuse :[2] il me semble que ce serait encore

[1] The *Vexin le Français*, or Custom of the French Vexin, was a body of rules not forming part of the Custom of the Provostship and Viscounty of Paris, but supplementary to the latter. It is true, as Raudot affirms, that from the beginning down to the adoption, in 1664, of the Custom of Paris as the general code of colonial law, the French Vexin had been the rule of law governing land grants in the colony. All the seigniorial grants made by the Company of One Hundred Associates were given under this code. See above, p. 19.

[2] There appears to be no evidence in support of Raudot's statement that the Norman settlers of the colony had requested the substitution of the Custom of Paris for the Vexin. In fact, there are good reasons, apart altogether from any preference on the part of the colonial seigniors (of whom there were probably not more than a score in 1664), why the king should at that time have established the Custom of Paris as the "common law" of the colony. The

un article sujet à réformation en les obligeant à suivre la Coutume de Paris à leur égard, comme ils font à l'égard de Sa Majesté.[1]

Je croirais donc, Monseigneur, sous votre bon plaisir, que pour mettre les choses dans une espèce d'uniformité et [pour] faire aux habitans la justice que les seigneurs ne leurs ont point faite jusqu'à présent, et les empêcher de leur faire dans la suite les vexations auxquelles ils seront sans doute exposés, qu'il serait nécessaire que Sa Majesté *donnât une déclaration que réformât* et qui réglât même pour l'avenir tous les droits et rentes que les seigneurs se sont donnés et qu'ils se donneront dans la suite, et que Sa Majesté ordonnât qu'ils prissent seulement, par chaque arpent de ce que contiendraient *les concessions*, un sol de rente et *un chapon par chaque arpent de front*, ou vingt sols, au choix du redevable; qu'on suprimât la clause de préférence que le seigneur se donne dans les ventes pour les héritages roturiers; qu'on suprimât aussi le droit de four banal; que dans les endroits où il y a de la pêche,[2] qu'on

only real difference in the relations of the seigniors to the crown brought about by the change was that, whereas under the Vexin they paid one year's revenue on the occasion of each mutation in the ownership of their seigniories, under the Custom of Paris they paid a quint, or one-fifth of the mutation price, whatever such happened to be. Of this amount it was customary to grant the seignior a rebate of one-third (see F. J. Cugnet, *Traité de la loi des fiefs*, Quebec, 1775, p. 9). It is not easy, moreover, to understand Raudot's assertion that the seigniors preferred to regulate their relations with their habitants by the rules of the French Vexin rather than by the rules of the Custom of Paris, because it was "more advantageous to them"; for they had by the former code no important rights which were not conferred by the latter. The rules of the *Vexin le Français* relating to seigniorial payments are printed in *An Abstract of those parts of the Custom of the Viscounty and Provostship of Paris, which were received and practised in the Province of Quebec in the time of the French Government* (London, 1772).

[1] The royal desires on this point seem to have been clearly expressed over forty years previously. See above, p. 19.

[2] The reference here is probably not to the ordinary seigniorial *droit de pêche*, or right of the seignior to one fish in every eleven caught by the habitants, but to the seigniorial practice of exacting from habitants engaged in the porpoise-fishing industry one-tenth of the oil produced, and of placing other restrictions upon the conduct of the industry. Cf. *Édits et Ordonnances*, II. 541.

réduisit les droits du seigneur au dixième purement et simplement sans autre conditions ; et qu'on conservât aux seigneurs le droit de banalité en faisant bâtir un moulin dans leurs seigneuries dans un an, sinon qu'on les déclarât deschus de leurs droits, sans que les habitans fussent obligés, lorsqu'il y en aurait un de bâti, d'y aller faire moudre leurs grains ; sans cela, Monseigneur, on ne viendra jamais à bout de leur faire bâtir des moulins, de la privation desquels les habitans souffrent beaucoup, n'estant pas en état à cause de leur peu de moyens de profiter de la grâce que Sa Majesté leur a faite en leurs *accordant la permission d'en bâtir en cas que les seigneurs ne le fissent pas dans un an.*[1]

Cela leur a esté accordé, en l'année mil six cent quatre-vingt-six, par un arrest qui a esté enregistré au conseil de ce pays ; mais l'arrest d'enregistrement n'ayant pas esté envoyé aux justices subalternes pour estre publié, ces peuples n'ont pû jouir de cette grâce jusqu'à présent,[2] et il ne l'a esté que depuis que je suis ici, en ayant eu connaissance par un procès qui a esté jugé depuis peu, dans lequel cet arrest estait produit et dont une des parties du procès n'a pas pu tirer avantage parce qu'il estait demeuré sans publication ; on n'en peut imputer la faute qu'au sieur D'Auteuil,[3] lequel en qualité de procureur-général de ce conseil, est chargé d'envoyer les arrests de cette qualité dans les siéges subalternes ; mais il estait de son intérêt comme seigneur, et aussi de l'intérêt de quelques

[1] The whole question of seigniorial mill banality, including the repeated efforts of the authorities to secure the erection of these mills by the seigniors, is discussed at length in Munro's *Seigniorial System in Canada*, chap. vi.

[2] This arrêt is printed above, pp. 61–62. Note the date of registration.

[3] François Magdelaine Ruette d'Auteuil, Sieur de Monceaux, was appointed acting attorney-general of the colony in 1679, and in the following year was confirmed as attorney-general (*Jugements et délibérations du Conseil Souverain*, II. 346–347, 422–423). At the time of the issue of the arrêt, D'Auteuil was seignior of the fief of Jacques Cartier. This he inherited from his father, Denis-Joseph d'Auteuil, who obtained it through his marriage with a daughter of the original grantee, Madame de Monceaux, to whom it had been given in 1649 (*Titres des Seigneuries*, 344 ; *Actes de Foi et Hommage*, V. 64).

conseillers, aussi seigneurs,[1] de ne pas faire connoître le dit arrest.

Voilà, Monseigneur, comme le Roy est obei dans ce pays, dans lequel je puis vous dire que, si on n'y tenait pas continuellement la main, les intérêts de Sa Majesté et ceux du public seraient toujours sacrifiés aux intérêts des particuliers.

Il me semble aussi, Monseigneur, que vous pourriez donner aux habitans de ce pays un grand soulagement dans leurs procès, en leur diminuant les *degrés de juridiction* qu'ils ont à essuier; ils sont obligés d'abord de procéder devant les juges des seigneurs dans les endroits où il y en a d'establis, ensuite par appel aux prévosté dont ils ressortissent, et enfin en dernier resort au conseil;[2] cela pourra estre bon quelque jour, mais dans le temps que cet ordre de juridiction a esté establi rien n'a esté plus pernicieux pour ces pauvres habitans, lesquels en souffrent encore à présent beaucoup, puisque le temps qu'ils devraient donner au travail on leur en fait consommer la plus grande partie à plaider; permettez moi, Monseigneur, de vous faire faire réflection sur l'embarras où est un habitant qui demeure à quinze lieues d'ici qui est obligé, souvent pour une bagatelle, d'y descendre pour faire juger à la prévosté l'appel du juge de son seigneur, et d'y faire encore un second voyage pour faire juger au conseil l'appel de cette

[1] Raudot apparently had in mind Rouer de Villeray, Le Gardeur de Tilly, Matthieu d'Amours, and Nicholas Dupont de Neuville, members of the Council, all of whom owned seigniories in 1686.

[2] "It is our will that an appeal shall lie from the seigniorial jurisdictions which are within the limits of the Prévôté of Quebec to the said Prévôté, and that appeals from the said Prévôté shall be carried to our said Council at Quebec, which we furthermore prohibit from entertaining any appeal directly from the seigniorial justices. And with respect to the other seigniorial jurisdictions which are not within the limits of the said Prévôté of Quebec, the appeals from them shall be brought directly before the said Council until such time as we shall have established other royal courts" ("Édit du roi pour l'exécution de l'ordonnance de 1667 ou rédaction du code," *Édits et Ordonnances*, I. 236–238, §§ 8, 9).

second sentence. Outre la perte du temps le plus clair de leur argent y va encore; ainsi, Monseigneur, je croy qu'on pourait leur retrancher un degré de juridiction, qui serait celui des prévostés et ordonner par provision et jusqu'à ce que Sa Majesté en eut autrement ordonné, qu'il serait surcis à l'exécution des lettres patentes en forme de dit du mois de juin mil six cent soixante-dix-neuf, et à la déclaration du mois de juin mil six cent quatre-vingt, qui porte que les appellations des justices de Québec et des Trois Rivières ressortiront en la prévosté et au siége royal de ces deux villes,[1] et par là l'appel de toutes ces sentences irait directement au conseil.

Pour me conformer, Monseigneur, aux instructions que vous m'avez fait l'honneur de me donner au sujet de la justice à l'exercice de laquelle je me suis appliqué tout entier, mon fils[2] s'estant chargé du reste de l'emploi; j'ai donné toute mon application à réformer plusieurs abus qui s'estaient introduits dans ce pays, et j'ai esté jusqu'à présent assez heureux pour y réussir.

De l'aveu de tous les honnestes gens il commençait à s'y établir une chicane et une mauvaise foi, une fausseté même dans les témoignages et dans les écrits qui aurait produit un très grand désordre dans la suite si le remède n'eût esté prompt et violent. Il a falu pour cela faire des exemples pour mettre tout le monde dans son devoir, et avec la protection que vous donnez, Monseigneur, à tous ceux qui n'ont que de bonnes intentions j'espère que j'en viendrai à bout, et que tous ses redoutables enemis de l'équité et de la justice sous la tiranie desquels tout le monde tremblait depuis vingt ans estant à bas; il ne me sera pas difficile de soumettre tous les autres, les juges tant supérieurs que subalternes qui à leur exemple

[1] "Déclaration du roi portant que les appellations des justices seigneuriales des Trois-Rivières ressortiront au siége royal établi pour la jurisdiction ordinaire des dites Trois-Rivières," *Édits et Ordonnances*, I. 242.

[2] See above, p. 70, note 1.

voulaient se prévaloir plutôt de leur caractère que de leur esprit s'estant dejà soumis.[1] . . .

Je suis avec un profond respect, Monseigneur, votre très humble, très obéissant, et très obligé serviteur,

RAUDOT.

A QUÉBEC, *ce* 10 9^{bre} 1707.

No. 32. Despatch of M. de Pontchartrain, Minister of Marine, to Jacques Raudot, Intendant, concerning Seigniorial Abuses and the Administration of Justice in Canada, June 13, 1708.

Archives du Ministère des Colonies, Paris, Série F 3, VII. 105.

J'AI reçu la lettre que vous m'avez écrite le 10 du mois de novembre, concernant l'état de la justice en Canada.[2] J'ai vu avec beaucoup de peine le peu de règle que l'on a observé dans tout ce qui s'est fait jusqu'à présent et l'embarras où les habitants se trouveraient si l'on revenait contre les actes et contrats qui se sont passés par les défauts de formalités qu'il y a. J'examinerai la proposition que vous faites de confirmer par un arrêt général tous ceux qui possèdent des terres et qui les cultivent depuis cinq ans, en vertu d'un titre tel qu'il soit : mais comme il ne se pourra rien faire sur cela que pour l'année prochaine,[3] examinez encore cette matière et envoyez-moi un mémoire de tout ce que vous estimez devoir être inséré dans cet arrêt.

Il serait fort à désirer qu'on pût réduire les droits

[1] The remainder of this memoir deals in a very interesting fashion with the general question of judicial reform in the colony.

[2] Printed above, pp. 70–80.

[3] Probably because the desired arrêt could not be prepared and submitted to the king before the last ships would leave for Quebec in the summer of 1708.

seigneuriaux dans toute l'étendue du Canada sur le même pied. Voyez ce qui se pourrait faire par cela et rendez-m'en compte, en observant que dès que l'on se conforme à la Coutume de Paris, il ne faut point admettre le retrait roturier. Je serais aussi d'avis qu'on n'admît pas le lignager et même le féodal, à moins qu'il n'eût été stipulé par la concession du fief.

À l'égard des redevances que l'on paie aux seigneurs, l'évaluation dont on se plaint ne doit être qu'en cas que l'espèce manque, à moins que dans la concession il ne soit dit au choix du seigneur; mais je serais d'avis d'abolir ces redevances parce que c'est matière à vexation. Je verrai ce qui ce pourra faire sur cela et je vous en informerai. À l'égard aussi des four banaux, il n'y a qu'à se conformer à l'arrêt qui a été rendu en l'année 1686 qui a statué sur cela et à le suivre.[1]

Je suis fort de votre avis au sujet des différents degrés de juridiction où les habitants du Canada sont obligés de plaider, mais comme il ne me paraît pas possible de supprimer les prévôtés, par les plaintes que cela attirerait,[2] je serais d'avis que ces prévôtés pussent juger en dernier ressort jusqu'à une certaine somme, et que quand elle seroit au dessus, l'appel des justices des seigneurs pût se faire directement au conseil supérieur.

Envoyez-moi un mémoire de ce qui se pourrait faire sur cela, avec votre avis. Relu, PONTCHARTRAIN.

[1] The minister is here in error, for the arrêt of 1686 had made no mention whatever of banal ovens (see above, pp. 61–62). He may have meant, perhaps, that the question of oven banality should be dealt with in the same way as that in which the arrêt of 1686 had attempted to deal with mill banality,—namely, that the seignior should be required to erect an oven within the space of one year, or else lose the right for all time to any one who should undertake to provide the facility. This, however, as Raudot points out in his reply (see below, p. 86), was not quite what was desired.

[2] *Cf.* above, p. 78, note 2.

No. 33. Memoranda of M. de Pontchartrain, Minister of Marine, to Messieurs Deshaguais and Daguesseau,[1] concerning the Royal Edict or Declaration desired by Raudot for the Reform of Seigniorial Abuses, July 10, 1708.

Archives du Ministère des Colonies, Paris, Série B, XXIX. 98.

M. de Pontchartrain à M. Deshaguais à Fontainebleau, le 10 juillet 1708.

M. de la Touche m'a remis, Monsieur, en partant de Versailles, une lettre de M. Raudot concernant la justice qu'il rend en Canada, avec le mémoire des observations que vous avez faites sur chacun des articles. J'ai fait réponse au dit Sieur Raudot en conformité de ces observations et je lui ai marqué que je proposerais au Roi de rendre une déclaration pour fixer les droits des seigneurs des paroisses de ce pays qui ont concédé des terres à des habitants, tant pour le passé que pour l'avenir, à un sou de rente et un chapon par chaque arpent de terre de front ou vingt sous au choix du redevable, suivant votre avis. Je vous prie de projeter cette déclaration de concert avec M. d'Aguesseau comme vous le proposez.

Voici une lettre que je luy écris pour le prier d'y travailler à son loisir parce que je compte que les vaisseaux du Canada sont à présent partis et qu'ainsi nous ne pourrons envoyer

[1] Henri-François Daguesseau (or d'Aguesseau), the son of Henri Daguesseau, intendant of Languedoc, was born at Limoges in 1668 and died at Paris in 1751. He became advocate-general of the Parliament of Paris in 1690, attorney-general in 1710, and chancellor of France in 1717. He was probably the ablest French jurist of his time, and he accomplished a number of important reforms in the legal system and in judicial procedure. Many articles from his ordinances are to be found to-day in the *Code Civil* of France.

cette déclaration que l'année prochaine. Je vous renvoie la lettre du dit S^r. Raudot avec votre mémoire d'observations. Relu, P. M.

M. de Pontchartrain à M. d'Aguesseau, le 10 juillet 1708.

M. Raudot, intendant en Canada, m'écrit, Monsieur, que les seigneurs des paroisses de ce pays qui ont concédé des terres à des habitants les ont assujétis à tous les droits qu'ils ont voulu, qui sont presque tous différents; qu'il y a dans la plupart de ces concessions des redevances qu'il ne faudrait point souffrir parce que c'est matière à vexation, et qu'il serait nécessaire de rendre une déclaration pour fixer les droits et rentes de ces seigneurs, tant pour le passé que pour l'avenir.

J'ai prié M. Deshaguais de vous voir et de prendre votre loisir pour pouvoir projeter cette déclaration.[1] Je lui envoye la lettre du dit Sieur Raudot, qui vous mettra au fait de ce qu'il écrit sur cela. Relu, P. M.

No. 34. Despatch of Messieurs Raudot to the Minister on the Progress of Agriculture, October 8, 1708.

Correspondance Générale, XXVIII. 190.

Monseigneur,—

. . . Les habitans du Canada s'adonnent de plus en plus à la culture de la terre;[2] c'est le seul moyen pour eux de se tirer de l'extrême misère où ils sont. Cette misère leur est

[1] Printed below, pp. 157–160.

[2] According to the census of 1698, there were 32,524 arpents of land under cultivation; and by 1706 this amount had increased to 43,671 arpents. See Johnson, *Censuses of Canada*, 1665–1871 (Ottawa, 1876), 41, 46.

causée par la cherté de marchandises et de toutes les choses généralement qui viennent de France. C'est un mal qui est causé par la guerre et qui ne finira qu'à la paix. . . . On ne peut encore penser à faire commerce de chanvre en France.[1] Les habitans s'y donnent peu, et, comme pour le faire venir, il faut bien fumer les terres dans lesquelles on le sème, on n'y réussit point en ce pays, parce que ses habitans ne sont point accoutumés à fumer leurs terres. Il faudra qu'à la suite ils les cultivent comme ceux de France, et en ce temps ils pourront s'adonner au chanvre. Celuy qui vient dans les terres neuves est trop gros et trop difficile à rouir. Avec le temps les habitans s'y mettront, et quand il sera à bon marché on pourra le commercer. Ce serait un bien infini que vous feriez, Monseigneur, à cette colonie si vous vouliez bien tirer des mâts et des planches de ce pays. Les S^rs. Raudot prendroient tous les soins possibles pour qu'ils fussent de bonne qualité et ils sont persuadés qu'on seroit content de ces bois dans les ports où ils arriveroient. . . .

RAUDOT. RAUDOT.

[1] Preceding governors and intendants had on several occasions emphasised the suitability of the colony for hemp culture, and had encouraged the growing of hemp, partly in order that it might be exported to France, and partly in order that during the long winters the people might have employment in weaving. In 1686 Governor Denonville wrote to the minister: "Je me persuade toujours de plus en plus de la nécessité qu'il y a d'obliger le peuple à s'adonner à faire de chanvres pour les convertir en toiles. La longueur de l'hiver pendant tout lequel le peuple ne fait rien que se chaufer, vivant dans une extrême oysivété, la nudité où sont tous les enfants, la fainéantise des filles et des femmes ; tout cela, Monseigneur, demande un peu de séverité pour que l'on sème du chanvre et que l'on s'applique aux toiles" (Denonville to Minister, May 8, 1686, *Correspondance Générale*, VIII. 15). The official encouragement availed little, however ; for, according to the census of 1720, when the agricultural system of the colony was well developed, the total hemp production reached only about two thousand pounds. The cultivation of flax was, however, much more successful.

No. 35. Despatch of Jacques Raudot, Intendant, to M. de Pontchartrain, Minister of Marine, containing a further Discussion of Seigniorial Abuses, October 18, 1708.[1]

Correspondance Générale, XXVIII. 175 ff.

MONSEIGNEUR,—

. . . J'ai eu l'honneur de vous demander une déclaration qui assurât la propriété des terres à ceux qui les possédaient, qu'on y insérât, ces mots, "par un titre tel qu'il soit," et pour cela j'ai eu l'honneur, par ma lettre du dix novembre dernier, de vous expliquer que plusieurs habitans de ce pays ont eu des concessions de terres sur de simples billets. D'autres n'ont pour eux que la possession sur la parole que les seigneurs leur ont donnée. D'autres encore ont perdu ou adhéré les dits billets. Il y a mesme plusieurs contrats qui ne se retrouvent plus. La possession mesme d'une partie de ces terres a esté fort interrompue par l'abandon que l'on a esté obligé d'en faire à cause de la guerre des Iroquois. Cela fait que les prescriptions establies par la coutume ne peuvent quasi servir à personne, et c'est par ces raisons que je crois qu'il seroit nécessaire d'insérer dans la déclaration que j'ai l'honneur de vous demander, que la propriété en demeureroit à celui qui en auroit eu la possession pendant cinq années ou qui la posséderoit par tel titre que ce fût.

Il seroit aussi nécessaire par rapport aux droits seigneuriaux, pour y mettre une uniformité, de les réduire tous sur un mesme pied, et pour cela, Monseigneur, j'ai l'honneur de vous envoier un mémoire [2] contenant les droits que j'ai trouvés dans

[1] The following despatch contains Raudot's reply to the minister's letter of June 13, 1708, printed above, pp. 80–81.

[2] Unfortunately, this memorandum does not seem to have been preserved.

plusieurs contrats de concession tous différents, à costé duquel j'ai mis mon avis touchant les diminutions et retranchements qu'on pourrait y faire, [et] je me suis conformé en cela aux premières concessions qui ont esté données dans un temps innocent et où l'on ne cherchoit pas tant ses avantages, et je crois, Monseigneur, que la justice que l'on doit aux habitans y estant par là gardée, S. M. pourroit dans sa déclaration y inscrire ces mots sans s'arrester aux charges, clauses, et conditions portées par les titres de concession, qu'on ne payeroit les redevances que suivant ce qui seroit portée par la dite déclaration.

Pour le retrait roturier, vous convenez, Monseigneur, avec raison qu'il faut le supprimer dans tous les contrats de concession, et on pourroit en user de mesme à l'égard du féodal, parce que s'il en est parlé dans la coutume de Paris ce n'a esté que parce qu'on a supposé que les fiefs pour lesquels on l'exèrce faisoient partie de la seigneurie dont ils ont esté aliéné, et on a voulu par là donner au seigneur le droit de remettre son fief sur le mesme pied qu'il estoit anciennement ; mais il n'en est pas de mesme en ce pays cy, les seigneurs ayant donné les fiefs en mesme temps qu'ils ont formé leurs seigneuries et on ne peut pas dire que ces fiefs en soient un démembrement.

Pour le retrait lignager, il me paroist que l'on ne peut en user de mesme, ayant esté estably par la Coutume pour de bonnes raisons ; au contraire il doit, ce me semble, estre favorablement interprété, puisque cela perpétue les biens dans les familles, et assure un droit à ceux à qui la nature le donne.

Je n'ai demandé, Monseigneur, la suppression des fours banaux que par l'impossibilité, dans laquelle seront ceux qui s'y seront assujétis, de profiter de l'obligation dans laquelle on les met d'y aller cuire, à cause de l'esloignement dans lequel sont tous les habitans des seigneuries de la maison de leurs seigneurs ; les seigneuries de ce pays-cy n'estant point establies comme en France où quasi tous les habitans sont réunis en villages, les

uns proches des autres, et à portée d'aller tous cuire au four banal. Ici les habitans des seigneuries, lesquelles ont au moins deux lieues de front le long du fleuve Saint-Laurent, sont tous establis le long du dit fleuve; ainsi le four banal estant dans la maison du seigneur, qui est toujours le centre de la seigneurie, il y a tel habitant qui seroit obligé de porter sa paste à une lieue et mesme [à] deux ou trois de chez lui. Outre l'incommodité que cela leur donneroit en toute sorte de saison, il y a mesme de l'impossibilité dans l'hiver, puisque leur paste seroit gelée avant qu'elle pust arriver dans l'endroit où seroit le dit four.

C'est un droit, Monseigneur, qu'il faut supprimer, les habitans n'en pouvant tirer aucun avantage, et les seigneurs ne l'ayant et ne le voulant establir que pour les obliger à s'en rédimer en se soumettant à l'avenir à quelque grosse redevance par rapport à la servitude dont ils se libéreroient.[1] Il n'en est pas de mesme, Monseigneur, des moulins banaux; le moulin banal estant toujours à l'avantage des habitans qui ne sont pas en estat d'en construire, et le four banal à leur désavantage, puisqu'il n'y en a pas un qui n'ait un four dans sa maison et du bois tant qu'ils veulent pour le chauffer. . . .

RAUDOT.

À QUÉBEC, 18 *octobre* 1708.

[1] The forebodings of the intendant on this point were evidently not realised. The right of oven banality was exacted in very few cases at most; and there is no evidence that the seigniors ever compelled their habitants to redeem themselves from subjection to the right by the payment of a money fine.

No. 36. Ordinance defining the Honours to be accorded Seigniors in Seigniorial Churches, July 8, 1709.[1]

Édits et Ordonnances, II. 154–157.

. . . I. Que le dit appelant et les autres curés de ce pays ne reconnoitront à l'avenir qu'un seul seigneur dans leurs paroisses, qui sera celui sur la terre en haute-justice duquel l'église sera bâtie, lequel seigneur haut-justicier aura seul les droits honorifiques de l'église après le patron, en cas qu'il y en aît un.

II. Qu'il aura un banc permanent dans la place la plus honorable qui est la droite en entrant dans l'église, dans la distance de quatre pieds du balustre, afin de laisser un passage libre pour les communions, lequel banc sera de la même largeur de ceux des autres habitans pour ne point embarrasser les cérémonies de l'église et qui ne pourra être que du double de profondeur des autres.

III. Que le dit seigneur haut-justicier ira, si bon lui semble, le premier à l'offrande après la personne qui aura offert le pain bénit, et ses enfants mâles après lui, et en cas d'absence du dit seigneur, ses dits enfans qui auront atteint l'âge de seize ans.

[1] This ordinance was issued as the result of a disagreement between Joseph Desjordy de Cabanac, seignior of Champlain, and Pierre Hazeur Delorme, curé of the parish, over the proper honours to be accorded to a seignior in the seigniorial church. The matter was brought before the Superior Council at Quebec, where, after an examination of the laws and precedents, it was decided to issue a general ordinance dealing with the case in hand, and providing at the same time for all similar cases which might arise. These petty bickerings between the civil and the religious authorities in the local units were but echoes of the larger conflict between the governor and the bishop which convulsed the colony during a considerable period of its history. See Lareau, *Histoire du droit canadien*, I. chaps. xvi.–xviii. On the relation of the seignior to the parish church, see also above, pp. 58–61.

IV. Qu'icelui seigneur ira, après le clergé revêtu de surplis, le premier, et ses enfants mâles après lui, au balustre prendre les cierges le jour de la Chandeleur, et recevoir les cendres et les rameaux, et en cas d'absence du dit seigneur, ses enfans comme il est dit ci-dessus.

V. Que le seigneur marchera aux processions immédiatement et le premier après le curé, et ensuite ses enfans mâles, et en cas d'absence du dit seigneur, ses enfans ainsi qu'il est dit ci-dessus.

VI. Que le seigneur aura droit de sépulture dans le chœur, hors du sanctuaire, pour lui et sa famille, lorsqu'il aura donné la terre sur laquelle l'église aura été bâtie, sans qu'on leur puisse faire des tombeaux élevés, et sans qu'il soit obligé de payer le droit d'ouverture de terre, mais seulement les autres droits de la fabrique et ceux du curé.

VII. Qu'après l'œuvre et le chœur, le seigneur aura le premier l'eau bénite par aspersion, aussi bien que sa femme et ses enfans, en son absence sa femme, et en l'absence de l'un et l'autre ses enfans de l'âge de seize ans, les marguilliers auront seulement l'eau bénite avec les autres habitans.

VIII. Le seigneur aura le premier le pain bénit après le clergé revêtu de surplis, et après lui sa femme et ses enfans, qui se trouveront dans son banc, et en cas d'absence du seigneur, sa femme, et si l'un et l'autre ne se trouvoient point à l'église, ses enfans et ce avant les marguilliers et les chantres non revêtus.

IX. Que les co-seigneurs et seigneurs de fiefs, si aucuns se rencontrent dans une même paroisse, payeront à la fabrique les bancs qu'ils occuperont dans l'église, lesquels bancs, ensemble ceux qui seront concédés à des personnes de caractère, seront placés après celui du seigneur haut-justicier, dans les endroits qui leur seront convenables et au-dessus de ceux des habitans.

X. Que les femmes même du patron, celles des seigneurs haut-justiciers, n'auront aucun rang dans les cérémonies de l'église, lorsqu'elles sortiront de leurs bancs, qu'après tous les

hommes, et que quand elles iront chercher les cierges, les cendres et les rameaux, et qu'elles se trouveront aux processions, elles marcheront les premières avec leurs filles à la tête de toutes les autres femmes.

XI. Que les curés de chacune paroisse seront tenus de recommander nommément aux prônes le seigneur haut-justicier et sa femme et leurs enfans en nom collectif; et, pour faire droit sur la requête de Messieurs les grands-vicaires de Monsieur l'évêque de Québec au sujet du droit de litres, ordonne qu'il en sera délibéré, et que le présent réglement sera exécuté selon sa forme et teneur; fait défenses aux curés de décerner aux seigneurs haut-justiciers d'autres honneurs que ceux ci-dessus réglés, à peine de privation de leur temporel, et aux dits seigneurs de les exiger, aussi à peine de demeurer déchus de tous ceux qui leur sont ci-dessus adjugés; et le présent arrêt déclaré commun avec tous les autres curés et seigneurs haut-justiciers de ce pays, tous dépens compensés entre les parties. RAUDOT.

No. 37. Mémoir of Antoine-Denis Raudot, Adjunct-intendant, to the Minister concerning the Progress of Agriculture, November 1, 1709.

Correspondance Générale, XXX. 207.

MONSEIGNEUR,—

. . . Si vous aviez la bonté de vouloir bien appliquer l'argent qu'on tirera de ces congés pour encourager les habitants, et les ayder à faire valoir leurs terres, comme je me suis donné l'honneur de vous le marquer dans la lettre que je vous ay escrite conjointement avec mon père, on verra ce pays augmenter à vue d'œil, et les habitans travailler de plus en plus à la terre pour la rendre plus fertile. Je crois, Monseigneur, qu'on ne peut mieux faire que de distribuer des

grâces à ceux qui par leurs peines, et par leurs travaux font valoir la colonie, la rendant plus abondante, et plus commercante. C'est le travail des habitans qui fait valoir toutes ces choses.

. . . Les habitans commencent aussy de plus en plus à s'adonner à la culture de la terre. Ils deviennent plus travailleurs qu'ils n'étoient, et ce pays deviendra à la suite des temps comme les autres, mais il faut s'y donner de la peine, et des soins, les nouveaux établissemens demandant d'estre conduits comme un bon père de famille conduiroit sa terre. . . . RAUDOT.

À QUÉBEC, *le* 1^er^ *novembre* 1709.

No. 38. The Arrêts of Marly, July 6, 1711.[1]

Édits et Ordonnances, I. 324–326.

Arrêt du Roi qui ordonne que les terres dont les concessions ont été faites, soient mises en culture et occupées par des habitans.

Le roi étant informé que dans les terres que Sa Majesté a bien voulu accorder et concéder en seigneurie à ses sujets en la Nouvelle-France, il y en a [une] partie qui ne sont point entièrement habituées et d'autres où il n'y a encore aucun habitant d'établi pour les mettre en valeur, et sur lesquelles

[1] These arrêts, taking their name from the place at which the royal signature was appended, are perhaps the two most important enactments in the history of the seigniorial system in New France. Up to this time seigniors had been under no obligation to subgrant lands within their seigniories; and if they did make such grants they were under no restrictions as to the amount of dues for which they should stipulate in the title-deeds. In a word, the seigniory was the property of the seignior, to be disposed of or held as he might see fit. After 1711 this freedom no longer existed. On the contrary, the Canadian seignior became, in a way, a mere agent of the crown in allotting lands to settlers, being bound to concede lands to any one who should apply, provided the applicant was willing to pay the customary rate of dues. The vital importance of these two arrêts is discussed at length in Lafontaine's *Observations*, 8–150.

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aussi ceux à qui elles ont été concédées en seigneuries n'ont pas encore commencé d'en défricher pour y établir leurs domaines : Sa Majesté étant aussi informée qu'il y a quelques seigneurs qui refusent, sous différents prétextes, de concéder des terres aux habitants qui leur en demandent dans la vue de pouvoir les vendre, leur imposant en même tems les mêmes droits de redevance qu'aux habitans établis, ce qui est entièrement contraire aux intentions de Sa Majesté et aux clauses des titres de concessions par lesquelles il leur est permis seulement de concéder les terres à titre de redevance, ce qui cause aussi un préjudice très considérable aux nouveaux habitans qui trouvent moins de terre à occuper dans les lieux qui peuvent mieux convenir au commerce.

À quoi voulant pourvoir, Sa Majesté, étant en son conseil, a ordonné et ordonne que dans un an du jour de la publication du présent arrêt, pour toute préfixion et délai, les habitans de la Nouvelle-France auxquels Sa Majesté a accordé des terres en seigneuries, qui n'ont point de domaine défriché et qui n'ont point d'habitans, seront tenus de les mettre en culture et d'y placer des habitants dessus, faute de quoi et le dit tems passé, veut Sa Majesté qu'elles soient réunies à son domaine à la diligence du procureur-général du conseil supérieur de Québec, et sur les ordonnances qui en seront rendues par le gouverneur et lieutenant-général de Sa Majesté et l'intendant au dit pays :[1] ordonne aussi Sa Majesté que tous les seigneurs au dit pays de la Nouvelle-France ayent à concéder aux habitans les terres qu'ils leur demanderont dans leurs seigneuries à titre de redevances et sans exiger d'eux aucune somme d'argent pour raison des dites concessions, sinon et à faute de ce faire permet aux dits habitans de leur demander les dits terres par sommation, et en cas de refus de se pourvoir pardevant le gouverneur et lieutenant-général et l'intendant au dit pays, auxquels Sa Majesté ordonne de concéder aux dits habitans les

[1] On the non-enforcement of this provision, see below, pp. 163–164.

terres par eux demandées dans les dites seigneuries, aux mêmes droits imposés sur les autres terres concédées dans les dites seigneuries, lesquels droits seront payés par les nouveaux habitans entre les mains du receveur du domaine de Sa Majesté en la ville de Québec, sans que les seigneurs en puissent prétendre aucun [droit] sur eux, de quelque nature qu'ils soient, et sera le présent arrêt enregistré au greffe du conseil supérieur de Québec, lu et publié partout où besoin sera.

Fait au conseil d'état du roi, Sa Majesté y étant, tenu à Marly, le sixième jour de juillet, mil sept cent onze.

PHELYPEAUX.

Arrêt du Roi qui déchoit les habitans de la propriété des terres qui leur auront été concédées, s'ils ne les mettent en valeur, en y tenant feu et lieu, dans un an et jour de la publication du dit arrêt.

Le roi étant informé qu'il y a des terres concédées aux habitans de la Nouvelle-France, qui ne sont habituées, ni défrichées dans lesquelles ces habitans se contentent de faire quelques abbatis de bois : croyant par ce moyen, et par les concessions qui leur en ont été faites par ceux auxquels Sa Majesté a accordé des terres en seigneuries, s'en assurer la propriété, ce qui empêche qu'elles ne soient concédées à d'autres habitans plus laborieux, qui pourroient les occuper et les mettre en valeur, ce qui est aussi très préjudiciable aux autres habitans, habitués dans ces seigneuries : parce que ceux qui n'habitent, ni ne font point valoir leurs terres, ne travaillent point aux ouvrages publics qui sont ordonnés pour le bien du pays et des dites seigneuries, ce qui est très contraire aux intentions de Sa Majesté, qui n'a permis ces concessions que dans la vue de faire établir le pays, et à condition que les terres seront habituées et mises en valeur : et étant nécessaire de pourvoir à un pareil abus, Sa Majesté étant en son conseil a ordonné et

ordonne que dans un an du jour de publication du présent arrêt, pour toute préfixion et délai, les habitans de la Nouvelle-France qui n'habitent point sur les terres qui leur ont été concédées, seront tenus d'y tenir feu et lieu, et de les mettre en valeur, faute de quoi et le dit tems passé, veut Sa Majesté que sur les certificats des curés et des capitaines de la côte,[1] comme les dits habitants auront été un an sans tenir feu et lieu sur leurs terres, et ne les auront point mises en valeur, ils soient déchus de la propriété: et icelles réunies au domaine des seigneuries sur les ordonnances qui seront rendues par le sieur Bégon, intendant du dit pays de la Nouvelle-France, auquel elle mande de tenir la main à l'exécution du présent arrêt, et de le faire enregistrer au greffe du conseil supérieur de Québec, publier et afficher partout où besoin sera, à ce que personne n'en ignore.

Fait au conseil d'état du roi, Sa Majesté y étant, tenu à Marly, le sixième jour de juillet, mil sept cent onze.

PHELYPEAUX.

No. 39. Report on the Seigniories and Settlements in the Districts of Quebec, Three Rivers, and Montreal, by Gédéon de Catalogne,[2] Engineer, November 7, 1712.

Correspondance Générale, XXXIII. 278 ff.

MONSEIGNEUR,—

J'avois prétendu en levant les plans des seigneuries et habitations des gouvernements de Québek, les Trois Rivières

[1] The *capitaine de la côte*, or, as he was more commonly called, the *capitaine de la milice*, was an officer appointed in each parish by the colonial authorities to serve as the local agent of the central government. His duties were, in general, to keep the muster-roll of the parish, to promulgate decrees sent to him from Quebec, and to keep the intendant duly informed on conditions within his district. The post was frequently held by a seignior.

[2] Gédéon de Catalogne (or Catalougne) was a native of Bearn, born in 1662.

et de Montréal en Canada, donner à Vostre Grandeur une juste idée de l'ordre de son établissement. Je me suis aperçu que pour les rendre plus intelligibles, il en falloit détailler seigneurie par seigneurie, les productions naturelles et accident-elles, la qualité et propriété des terres, les noms et qualités des seigneurs, par quelle communauté les paroisses sont desservies, et à chacune ses propriétés. Par ce moyent sy le copiste des derniers plans a esté fidèle, Vostre Grandeur connoîtra mieux le Canada que ceux qui l'ont fréquenté pendant plusieurs années. J'avois eu dessein de marquer sur les plans les étendues des terres réduites à la culture par chaque habitation, mais il m'auroit fallu un tems très considérable. Outre que les déserts s'augmentent tous les jours. J'ose me flatter, Monseigneur, que Vostre Grandeur sera satisfaite de mes applications et du profond respect avec lequel j'ay l'honneur d'estre. . . . CATALOUGNE.

À QUÉBEC, *le 7^e^ novembre* 1712.

At an early age he entered the engineer branch of the French military service, and soon obtained a lieutenant's commission. He was, however, a Huguenot; and when the Edict of Nantes was revoked in 1685 he found himself forced either to abjure his faith or to leave France. He chose the latter course and came to Canada, where, strangely enough, he promptly became a Catholic and so remained for the rest of his life.

Catalogne rendered very valuable service to the colony on several occasions In 1686–1687 he was one of the leaders of the expedition sent by the authorities of New France against the English posts on Hudson's Bay. Two years later he distinguished himself in the defence of the outlying parishes of Montreal against the Iroquois raiders; and in 1690 he was put in charge of the work of strengthening the defences of Quebec in preparation for the assault of Sir William Phipps's expedition. Of his doings in Canada during the next score of years very little is recorded, save that in 1693 he took a prominent part in the military preparations which were made to meet the expected expedition of Sir Francis Wheeler. In 1700 he is mentioned as having taken hold of a project for the construction of a canal round the St. Lawrence rapids at La Chine. In despatches sent to the minister during the years 1708–1709 his zeal and industry were warmly praised by the intendant, Jacques Raudot, who at the same time transmitted maps of the districts of Montreal, Three Rivers, and Quebec, which the engineer had prepared with evident care and accuracy. The intendant recommended that for these services Catalogne be rewarded

. . .[1] Comme le gouvernement de Montréal est le premier de qui le plan a esté levé, je le mets à la teste. Il s'étend depuis le haut du Lac St. Pierre en remontant au sudoüest jusques au Lac des Deux Montagnes, où est la teste des

with promotion to the rank of captain. In 1711 Catalogne was again entrusted with the work of improving the fortifications at Quebec in view of the anticipated English attacks; but on this occasion his engineering skill was not put to actual test. Six years later he was put in charge of the engineering work at Louisburg, where he remained till his death in 1729.

Catalogne has been generally regarded as the author of the anonymous *Recueil de ce qui s'est passé en Canada au sujet de la guerre, tant des Anglais que des Iroquois, depuis l'année 1682*, published by the Quebec Literary and Historical Society in 1871; but the editors of the *Collection de manuscrits . . . relatifs à la Nouvelle-France* (3 vols., Quebec, 1883–1884) attribute the authorship of this interesting and important narrative to another engineer, M. Chaussegros de Léry (see *Collection*, I. 625, note). There are, however, several good reasons which serve to render this latter contention untenable. See, for example, Cyprien Tanguay's "Étude sur une famille canadienne: famille de Catalogne," in Royal Society of Canada, *Proceedings*, 1884, *Mémoires*, sec. i. 7 ff.

The lengthy report here printed, entitled "Mémoire sur les plans des seigneuries et habitations des gouvernements de Québec, les Trois-Rivières, et de Montréal," was prepared by Catalogne during the years 1710–1712 at the request of the colonial authorities, and was in the latter year transmitted by the intendant to the minister. Two copies are preserved in the archives of the Ministry of Colonies in Paris, and there are some slight variations between the two; but in general the matter and the arrangement are the same. This "Mémoire" is the most elaborate and at the same time the most trustworthy topographical paper which the files of the *Correspondance Générale* contain, and is of the highest value as indicating clearly the stage of development reached by the various seigniories during the early part of the eighteenth century. A few extracts from the last pages of the report have been printed in the appendix to Parkman's *Old Régime in Canada* (2 vols., Boston, 1901), but the main body of the document has not hitherto been rendered accessible in printed form. Of the maps prepared by Catalogne and transmitted by the intendant to France, only those of the districts of Quebec and Three Rivers are extant; the map of the Montreal district has never come to light, though various Canadian antiquarians have made diligent search for it in all the important French archives. It is highly probable that this map was not sent with the others, and that it was lost at sea en route to France. The two extant maps have been copied for the Canadian authorities; and these copies, admirably executed, are now in the Parliamentary Library at Ottawa.

[1] The first portion of the report, here omitted, devotes a few pages to a description of the trees, plants, and general natural resources of the colony.

habitations et où se termine l'Isle de Montréal, une des plus belles seigneuries du pays. L'Isle de Montréal appartient à M^rs^ du Séminaire de St. Sulpice.[1] Les premières habitations ont esté concédées en 1653. Elle est divisée en six paroisses, sçavoir, Montréal, La Chine, Haut de l'Isle, la Pointe au Tremble, la Rivière des Prairies et la Mission du Saut au Récolet. La première est desservie par un des prestres du dit Séminaire de laquelle [duquel] dépendent les habitans le long du fleuve, depuis Verdun jusques à la Longue Pointe; en outre la moitié des Costes St. Pierre et St. Paul, les costes de Nostre Dame des Neiges, de Liesse, des Vertues, St. Laurent, Ste. Catherine et St. Michel et la Visitation. La situation de la ville est fort agréable. Du costé du sud, et [du] sudoüest est une très belle plaine qui se termine à la Rivière St. Pierre et coste St. Paul, où les terres sont très fertiles en toutes sortes de grains et [de] légumes. Du costé de l'oüest les terres se lèvent en amphithéâtre jusques au pied de la montagne distante de la ville de trois quarts de lieue, où M^r^ l'Abbé de Belmont[2] a fait construire une belle maison et un fort à pierre et à chaux, un très beau verger, [dont] la pluspart [est] ensein [enceinte] de muraille, [et] qui donne annuellement cent à cent vingt barriques de cidre. Le reste des environs du fort sont de belles prairies et terres labourables, qui forme[nt] un très beau domaine. Derrière et autour de la d[ite] montagne sont les costes Ste. Catherine, Nostre Dame des Neiges, de Liesse et des Vertues, nouvellement establies. Les terres y

[1] The seigniory of the Island of Montreal was first granted by the Company of New France to Messieurs Pierre Chevrier and Jerome Le Royer, priests of the Seminary of St. Sulpice at Paris, on December 17, 1640 (*Titres des Seigneuries*, 365), and in 1664 was by them vested in the seminary itself (*Édits et Ordonnances*, I. 93). After the British conquest the seminary at Paris handed the seigniory over to the Seminary of St. Sulpice at Montreal (1764). A good description of the fief may be found in Joseph Bouchette's *Topographical Description of the Province of Lower Canada* (London, 1815), 131-164.

[2] Of the Seminary of St. Sulpice at Montreal, and author of a *Histoire du Canada* (1659).

sont très belles et de bonne qualité pour les arbres fruitiers et pour produire toutes sortes de grains et [de] légumes.

Du costé du nordoüest et du nord de la ville, il y a aussy de belles plaines, entrecoupées de petits costeaux qui se terminent à St. Laurent, St. Michel et la Visitation, costes aussy nouvellement establies et où les terres sont très belles tant pour les arbres fruitiers que pour rapporter toutes sortes de grains et [de] légumes.

Du costé du nordest de la ville sont les costes de Ste. Marie, St. Martin et St. François qui se terminent à la Longue Pointe où finit la paroisse. Les terres y sont très belles et unies, produisant toutes sortes de grains et [de] légumes, quoique les arbres fruitiers n'y viennent que par contrée. Toute cette paroisse en 1684 n'estoit presque qu'une forest de toutes sortes d'arbres très gros particulièrement des pins, érables, bois blancs, ormes, hestres et merisiers et cèdres, dans la ville et aux environs il y a plusieurs vergers produisant toutes sortes de fruits en abondance. Les carrières de pierre à tailler et à chaux se trouvent aux environs de la dite montagne.

Le commerce de cette place estoit autre fois très avantageux par le grand nombre de sauvages qui y descendoient des pays d'en haut, avec des canots chargés de pelleteries. Mais depuis que les congés que Sa Ma^té^ avoit accordés à la colonie ont esté supprimés presque toutes ces nations vont porter leurs pelleteries aux établissements anglois, soit à Orange ou à la Baye d'Hudson, où ils trouvent les marchandises de moitié meilleur marché qu'à Montréal. Cette suppression sert aussy de prétexte à un grand désordre, en ce qu'il y avoit un grand nombre de voyageurs qui exploitoient ces congés, qui se trouvent sans occupation ne pouvant se captiver à cultiver les terres, au contraire se débandant annuellement par troupes et à la dérobée pour porter des marchandises dans ces pays là où ils vivent en vagabonds et sans discipline. Cette année il en est encore party une vingtaine et si les marchandises n'estoient

pas aussy rares qu'elles sont il y en auroit esté plus de cent, tant ce commerce est attirant, ou plustôt la lissance [licence] qu'ils s'y donnent. En sorte que le commerce de cette ville est renfermé avec nos sauvages dommiciliés et à la quantité de farines et pois que l'on fait descendre à Québek pour les envoyer à Plaisance et aux Isles.

La Paroisse de la Chine est desservie par M^r^ de Villermola un des prestres du Séminaire de Montréal qui y a facilité et contribué un établissement aux sœurs de la congrégation pour l'instruction des jeunes filles. La situation de la coste est très belle par son assiette et son exposition au midy et [au] soleil couchant. Les terres y sont très fertiles en toute sorte de grains et [de] légumes, et c'est dans cette partie que les semences et [les] récoltes se font 15 jours plustôt qu'au reste des trois gouvernements. Les arbres fruitiers y viennent assez, mais non pas si bien qu'aux environs de la ville. Les forests contiennent toutes sortes de bois mélangés, et nombre de carrières de pierre à chaux. Les habitans y estoient autre fois fort à leur aise par le commerce qu'ils faisoient avec les sauvages, qui y abordoient en descendant à Montréal. Mais depuis la désolation que les Iroquois y portèrent en 1689,[1] qui brulèrent les maisons et emmenèrent la pluspart des habitans captifs, elle a dégénéré en tout. Les terres en labour y sont devenues incultes pendant plusieurs années, et la crainte que l'on a de tomber en de pareils accidens porte une grande lenteur à ceux qui en sont présentement en possession. Outre qu'il ne s'y fait plus de commerce, et que les habitans ont beaucoup de difficultés à transporter leurs denrées à Montréal par rapport au saut St. Louis qui est un rapide impracticable, ou du moins très dangereux, où il y a péry un grand nombre de bateaux et [de] canots avec les gens qui les conduisoient. Il y a en des années qu'il en

[1] August 4, 1689. This disastrous raid is described at length in the *Recueil de ce qui s'est passé en Canada . . . depuis l'année 1682*, the authorship of which has, as stated above, been attributed to Catalogne.

coûtoit au Roy plus de deux cens pistoles. Feu M^r. Dollier,[1] supérieur du Séminaire, en 1701 voulust prévenir les suites de ces accidens en faisant un canal de communication de la Chine à Montréal, pour éviter tous les rapides, et sur lequel il vouloit faire construire [un] nombre suffisant de toute sorte de moulin, qui ne sont que trop nécessaires à la ville et à la campagne, les habitans estant très souvent obligés de manger des grains bouillis faute de vent pour faire tourner les moulins. Sa mort, qui arriva au mois d'octobre de la mesme année [l'] a empesché de voir finir un ouvrage qui estoit au deux tiers fait, puisque l'eau a commencé à y passer et qu'il ne s'agissoit que de creuser trois pieds pendant trois à quatre cens toises pour y faire passer des canots. M[essieurs] Le Vasseur et de Bécancours s'y transportèr[ent] l'année suivante et estimèrent qu'avec une dépense de dix mil livres on y feroit passer de grands bateaux chargés sans que ces raisons ayent produit aucune émulation pour achever un ouvrage si utile, non seulement au peuple mais au Roy, à qu'il en coûte tous les ans plus de deux cens escus pour transport de charrois, au lieu que les bateaux pourroient se charger dans la ville de Montréal sans courir les risques de faire nauffrage; et à moi pour avoir donné le dessein et conduit des ouvrages il m'en a coûté 3000 [livres] par le prompt décès de M^r. Dolliers.[2]

La Paroisse du Haut de l'Isle sous le titre de St. Louis est desservie par M^r. de Breslay, missionnaire des sauvages Nepissingues, nation très belliqueuse, establie à l'Isle aux Tourtres, distante de demy lieue de haut de la d[ite] Isle. Cette paroisse, en 1689, suivit le mesme sort que celle de la Chine. Les terres et les bois y sont de la mesme qualité qu'à

[1] François Dollier de Casson, third superior of the Seminary of St. Sulpice at Montreal, and author of the *Histoire du Montréal*, 1640-1672, published by the Quebec Literary and Historical Society in 1871.

[2] In 1700 Catalogne had, it is said, entered into a contract with Dollier de Casson for the construction of a canal "from Montreal to a point above the La Chine rapids." The construction of the present Lachine Canal was not begun until a full century later.

cette dernière. Ses avenues y sont très avantageuses pour la chasse, la pesche, et le commerce des sauvages.

La Paroisse de la Pointe au Tremble d'où dépend la coste St. Lionnard est desservie par un des prestres du Séminaire de Montréal; il y a un établissement des sœurs de la congrégation. La coste est très belle et le terrain uny. Les habitans très laborieux y sont fort à leur aise; les terres y estant très fertiles en toute sorte de grains et [de] légumes qu'ils portent [à] vendre à la ville. Les bois sont mélanges de toute espèce. Les terres qui sont en culture ayant esté la pluspart cedrières et fresnières sont inépuissables en grains. Les pommiers par contrée y viennent parfaitement bien.

La Paroisse de la Rivière des Prairies est desservie par un des prestres de Montréal. Elle a environ trois lieues de front sur la Rivière. Ses habitans n'y sont pas bien riches quoique les terres y soient très bonnes pour la production de toute sorte de grains, mesme pour nourrir nombre de bestiaux. Mais les Iroquois, pour avoir détruit la pluspart des habitans, ont causé du retardement à son établissement. Il y a de toute sorte de bois quoique très peu de pins. Les arbres fruitiers y viennent assez bien.

La Mission du Saut au Récolet appellée Nouvelle L'horette a esté tirée de la montagne à trois quarts de lieue de Montréal pour oster aux sauvages les occasions fréquentes de s'en yvrer, à quoy ces nations sont fort sujettes. Les sœurs de la congrégation y ont un établissement pour l'instruction des jeunes filles sauvages. Les terres, quoique pierreuses, sont très bonnes, qui produisent quantité de blé d'Inde, fèves, haricots, citrouilles, melons, soleils, qui sont les semences ordinaires de ces gens-là. Les forests contiennent toutes sortes de bois. Comme il y a nombre d'érables ils font quantité de sucre qu'ils portent[à] vendre à la ville, et l'esté ils y portent l'herbe de capillaire qu'ils vendent pareillement. Il n'y a presque que les femmes qui fassent ce commerce. Les hommes ne s'occupant qu'à la chasse, la pêche et la guerre. Cet article fait la définition de

l'Isle de Montréal. L'Isle Jésus qui est au nordoüest de l'Isle de Montréal appartient au Séminaire de Québec.[1] Il n'y a qu'une paroisse, desservie par un prestre du dit Séminaire. Les seigneurs y ont un très beau domaine assorty de quatre moyennes isles où ils eslèvent grand nombre de bestiaux. Les terres y sont admirablement bonnes, produisant abondamment toute sorte de grains et [de] légumes. Comme les terres y sont basses et humides les arbres fruitiers n'y viennent pas bien. La forest réservée pour le domaine ne contient point de bois gommeux, consistant en noyers de toute espèce, fresnes ormes, érables, bois blancs, hestres et merisiers. Le reste de l'isle contient aussy toute sorte de ces bois, et en outre nombre de gros pins, chesnes et cèdres. Les habitans y ont esté détruit par les Iroquois, aussy bien qu'à l'Isle de Montréal ; ce qui a empesché que cette Isle ne soit pas mieux établie. À la vérité les terres n'y sont bonnes et fertiles que par contrée. L'éloignement du commerce leur est aussy un grand obstacle ; on tient qu'il y a plusieurs endroits qui portent les signes des minéreaux. En 1688 le nommé le Cire [Le Sieur] en crusant sa cave trouva quatre livres de mine d'argent qui fust fondu à Québek avec peu de déchet. Monsieur le Marquis de Denonville luy fist dire au rapport de M^r^ Volant curé au dit lieu que s'il trouvoit la souche de la mine que l'on le récompenseroit, mais cet homme peu de temps après fut tué par les Iroquois.

La Seigneurie des Mille Isles,[2] située au nordoüest de l'Isle

[1] *Titres des Seigneuries*, 447.

[2] The seigniory of Mille Isles was first granted to Sidrac Dugué, Sieur de Bois Briant, an officer in the Régiment de Carignan-Salières, on September 24, 1683 (*Titres des Seigneuries*, 59). Like many other military seigniories, however, it soon passed out of the original owner's hands, and became the property of Nicholas Dupré, a merchant of Montreal, who was in all probability one of Dugué's creditors. Dupré seems to have given little attention to the needs of his seigniory ; for in 1707 the habitants of his fief complained to the intendant that their seignior had provided no seigniorial mill, and were accordingly by intendant's decree permitted to erect a grist-mill for themselves, the seignior being thereby deprived of his banal rights (*Édits et Ordonnances*, II. 427). On March 1, 1714, the seigniory was declared forfeited to the crown under the

Jésus, appartient au S^r^ Dupré, marchand à Montréal. Ce nom de Mille Isles luy vient de la grand quantité presque innombrables qui la sépare de l'Isle Jésus. La pluspart de ces Isles sont couvertes de sapinage fort touffues quelques unes de moyens chesnes qui produisent abondamment du gland, que les plus ménagés amassent pour les pourceaux. Elles sont la pluspart fort pierreuses et peu propres à la culture. La terre ferme où les habitans ont leurs déserts sont très bonnes, produisant abondamment toute sorte de grains et [de] légumes, particulierèment de bon tabac, chanvre et lin. Les forests contiennent toutes sortes de gros bois. La fertilité de ces terres fait que les habitans y sont fort aisés quoiqu'ils soient éloignés du commerce de leurs denrées. La chasse et la pesche y est abondante.

La Seigneurie de la Chesnaye [1] appartient aux héritiers et créanciers du feu S^r^ Martel, marchand, dont le S^r^ de Bailleul, lieutenant des troupes, a épousé la veuve. Cette seigneurie fait paroisse avec celle de Repentigny, St. Sulpice et la Valterie. Elles sont desservies par un prestre du Séminaire de Montréal. Sy les Iroquois n'avoient [pas] détruit une partie des habitans et retardé la culture des terres, chacune des dites paroisses auroit esté en estat d'entretenir un curé; les terres y estant très bonnes, produisant abondamment toute sorte de grains et [de] légumes, et y ayant nombre de belles prairies et pasturages pour nourrir quantité de bestiaux; la pesche et la chasse très abondantes. Les bois par contrée y sont très beaux de toute espèce et en abondance. Les arbres fruitiers n'y viennent bien qu'en quelques endroits.

provisions of the Arrêts of Marly (see above, pp. 91–94), and four days later it was granted anew to Gaspard Piot *dit* Langloiserie and Jean Petit, to be held by them jointly (*Titres des Seigneuries*, 59). Some time later it was divided into the two seigniories of Duchêne and Blainville (*Actes de Foi et Hommage*, IV. 88).

[1] The seigniory of La Chesnaye (or Lachenaie) was granted by the Company of New France on April 16, 1647, to Pierre Le Gardeur de Repentigny (*Titres des Seigneuries*, 353).

La Seigneurie de Repentigny [1] appartient au Seigneur de ce nom, cap^ne. d'une comp^ie. du détachement de la marine. En ce pays la coste est très belle, unie, et ornée de plusieurs Isles qui sont au-devant produisant en abondance toutes sortes de grains et [de] légumes. Les bois en terre ferme sont mélangés de toute espèce. Les Iroquois en avoient détruit une partie des habitans et retardé pendant plusieurs années son establissement, et ce fût sur cette Seigneurie que Monsieur le Marquis de Vaudreuil en 1691 défist entièrement un party de ces insulaires et qui détermina toutes les nations à demander la paix.

La Seigneurie de St. Sulpice [2] appartient à M[essieurs] du Séminaire de Montréal. La guerre des Iroquois est cause qu'elle n'est pas bien establie, outre que les terres ne sont bonnes que par contrées, qui cependant produisent de bon grain et légumes, mais non pas si abondamment qu'à Repentigny. Les profondeurs des bois y sont mêlées de toutes espèces entrecoupées de savannes et pays marescageux, où il y avait autrefois des castors et orignaux en quantité.

Les Isles Bouchard [3] qui sont au sud de St. Sulpice appartiennent à M^r. Déjordis [Desjordy], cap^ne. dans les troupes, et aux héritiers du feu S^r. de Verchères, lieutenant réformé des troupes. Une de celles qui appartient au dit S^r. Desjordis est la plus grande, mais entrecoupée de marais poissonneux et avantageux pour la chasse au gibier passager, et prairies. Quoique les terres y soient des meilleures du pays, elle est si sujette aux inondations qu'il y en a très peu de réduites à la culture. Celles qui sont cultivées produisent abondamment

[1] The above grant to Pierre Le Gardeur de Repentigny was subsequently divided into two fiefs, one known as Lachenaie and the other as Repentigny, or L'Assomption.

[2] Part of the Island of Montreal (see above, p. 97, note 1).

[3] The seigniory of Isles Bouchard was granted on October 29, 1672, to the Sieur Fortel, brother of the Sieur de Bécancourt (*Titres des Seigneuries*, 92). Fortel disposed of it to François Desjordy, who appears as the owner of it in 1706 (*Ibid.*, 95).

toutes sortes de grains et [de] légumes. Les habitans qui y sont establis y sont fort à leur aise. Il y a quantité de gros bois consistant en ormes, chesnes blancs, érables, merisiers, plaines, fresnes et noyers, [dont] la pluspart dans certaines années se trouvent couverts de raisins du pays qui fait du vin fort âcre et noir comme de l'encre.

La Seigneurie de la Valterié[1] appartient à la veuve de ce nom. Le seigneur avoit esté officier dans le régiment de Carignan, et depuis, cap^ne. dans les troupes du détachement de la marine. J'ay déjà dit qu'elle fait paroisse avec celle de St. Sulpice et Repentigny. Les terres y sont médiocrement bonnes. Les guerres cependant ont contribué au retardement de son établissement. Les premiers habitans ayant esté détruits ou ruinés, et les terres y sont revenues en taillis, que l'on commence à défricher. Celles qui y sont en culture produisent de bon grain et légumes, mais non pas abondamment. Les profondeurs sont entrecoupées de pignières. C'est le terme des contrées des pins et par d'autre des savannes et toute sorte de bois.

La Seigneurie de la Noré[2] appartient aux héritiers de ce nom et au S^r. Neveu, marchand. Elle fait paroisse avec Berthier, l'Isle du Pas et Sorel. Il y a très peu d'habitans, tant parce

[1] The seigniory of La Valterie was, on October 29, 1672, given to Séraphin Margane, Sieur de la Valterie (or Valtrie), lieutenant in the Carignan regiment (*Titres des Seigneuries*, 262). He died in 1699, and on April 21, 1734, an augmentation of the fief was granted to his son. The seigniory remained in possession of the heirs of the original owner down to the abolition of the tenure in 1854.

[2] More commonly written Lanoraie, or La Noraye. It was granted on April 27, 1688, to the Sieur de la Noré (Noraye) and other heirs of Charles Sevestre (sometime an officer of the Court of the Prévôté at Quebec), to whom it had originally been given by the Company of New France, but whose title-deed had been burned. The grant to Noraye was ratified by the king on April 23, 1700 (see *Réponse à une adresse de l'assemblée legislative . . . du 13 Avril 1853*, Quebec, 1853, p. 67). The fief was later (1724) purchased by Jean-Baptiste Neveu, who united it with the seigniory of Derrière Dautré (see below, p. 106, note 1). On August 15, 1739, Neveu received a considerable augmentation of his united territories (*Titres des Seigneuries*, 195).

que les terres dans les profondeurs n'y sont pas bonnes, que par la difficulté du commerce, des moulins éloignés de la résidence du curé et du seigneur. Cependant les terres qui y sont en culture produisent de toute sorte de grains et de légumes. Les bois y sont mélangés, de toutes espèces.

La Seigneurie de Dautré,[1] quoique les terres y paroissent assez belles par les bois qui sont dessus, est entièrement abandonnée, le seigneur et les habitans ayant esté détruits par les Iroquois, et les créanciers sont assez négligens pour ne la pas faire restablir.

La Seigneurie Dautay[2] appartient au fils de S^r. Romain, marchand, par les créances qu'il avoit sur icelle. Il n'y a que deux habitans résidents. Le reste des terres sont négligées quoiqu'en apparence elles soient très bonnes, mais l'éloignement des commodités nécessaires en empesche l'établissement. Il y a des bois de toute espèce.

La Seigneurie de Berthier[3] appartient au S^r. de Rigauville, enseigne dans les troupes, comme ayant espousé la veuve de ce

[1] This seigniory, commonly known as Derrière Dautré, was an augmentation of the seigniory of Dautré, or Dautray (see below, note 2). It was granted to Jean Bourdon, the owner of the latter fief, on April 6, 1647 (*Titres des Seigneuries*, 358), and was sold by him to Jean-Baptiste Neveu (*Actes de Foi et Hommage*, III. 446).

[2] Apparently the original seigniory of Dautré, or Dautray, given by the Company of New France to Jean Bourdon, engineer, on December 1, 1637 (*Titres des Seigneuries*, 356).

[3] The greater part of this seigniory, which was commonly known as Berthier-en-Haut to distinguish it from Berthier-en-Bas, or Bellechasse (see below, p. 141), was obtained by Alexandre Berthier the younger from the Sieur Raudin, an ensign in the Carignan regiment, who had received it from the crown in 1672 (*Titres des Seigneuries*, 133). The transfer was assented to by the authorities and an augmentation of the seigniory granted in 1674 (*Ibid.*, 134). In 1712 Berthier's second wife, Marie-Françoise Pachot, who survived him, married Nicholas des Bergères de Rigauville, ensign in the forces (Tanguay, *Dictionnaire Généalogique*, III. 362); and Rigauville thus became the owner of both Berthier-en-Haut and Berthier-en-Bas. In 1718 he sold the former seigniory to Pierre Lestage (*Actes de Foi et Hommage*, III. 190), whose widow in 1750 sold it to Pierre-Noël Courthiau. The latter in 1765 disposed of it to James Cuthbert, Esq., whose descendants still own the lands.

nom. Les terres y sont très belles et unies, exemptes d'aucune qualité de pierre, produisant abondamment toute sorte de grains et de légumes, mais très sujettes à brumer, les terres estant renfermées par les bois de haute futaie et par les Isles qui sont au devant qui, [pour] la pluspart, servent de commune aux habitans. Le reste est concédé et établis, les grains y venant mieux qu'en terre ferme. Cette seigneurie du costé du nordoüest du fleuve termine le bas du gouvernement de Montréal.

L'Isle Perrot[1] qui est au haut du dit gouvernement appartient au S^r. Desruisseaux, marchand, par l'acquisition qu'il en a faite des héritiers du S^r. Lémoine. Les terres y sont entrecoupées de carrières de grais [grès] et moulanges, fresnières et prairies. Il n'y a point d'autres ha[bita]ns que le seigneur. Cependant il y a fait la dépense d'un beau moulin et d'un retranchement contre l'insulte des ennemis, mais l'éloignement de la ville et les difficultés au Saut St. Louis empeschent son établissement. Les terres y produisent de très bons grains, et la pesche et la chasse en hiver et en esté y est très abondante.

La Seigneurie du Châteauguay[2] et les Isles de la Paix qui sont au-devant appartiennent au S^r. de La Noüe, lieutenant dans les troupes, par l'acquisition qu'il en a faite des S^rs. Lémoine. Elle n'a pas esté épargnée de l'invasion des Iroquois, ce qui est cause qu'il n'y a guère d'habitans résidents. Les terres par contrées y sont très bonnes et

[1] The seigniory of Isle Perrot, which lay off the southwest end of the Island of Montreal, was on October 29, 1672, granted to the Sieur François-Marie Perrot, captain in the regiment of Auvergne, and later governor of Montreal (*Titres des Seigneuries*, 259). Perrot sold it to Charles Le Moyne de Châteauguay, whose heirs sold it to Joseph Trottier, Sieur Desruisseaux (*Actes de Foi et Hommage*, II. 316). It was subsequently divided into several parts (*Ibid.*, VII. 353).

[2] Granted on September 29, 1673, to Charles Le Moyne de Longueuil (*Titres des Seigneuries*, 355). It was two leagues in frontage by three in depth, and lay along the south shore of the St. Lawrence between the fiefs of Beauharnois and Sault St. Louis.

produisent de toute sorte de grains et de légumes. La chasse aux orignaux et castors et autres animaux autrefois y estoit fort commune. Celle du gibier passager y est toujours abondante dans les saisons, la pesche à toute sorte de poissons et mesme l'hiver on tend des filets sous les glaces dans tout ce continent où l'on prend grand nombre d'esturgeons, poissons dorés, brochets et carpes, que l'on transportent à Montréal, particulièrement le caresme. Il y a aussi deux Rivières qui s'entrecoupent où l'on prend grand nombre de saumons pendant l'esté. Les pins par contrées y sont très gros et en abondance mesme tout sorte de bois. Le curé de la paroisse St. Louis dessert aussy celle de Châteauguay par rapport au peu d'habitans.

La mission du Saut St. Louis, sous le titre de St. François-Xavier,[1] [est] establie au sud de la Chine, où il y a un fort avec garnison françoise pour garder les sauvages des cinq nations iroquoises qui y sont établis. Il y a trois P. Jésuites qui les gouvernent. Ces nations sont extrèmement fières. Elles ont des chefs qui les conduisent quoyqu'ils sont accoutumés à suivre leurs caprices, n'y ayant parmy les sauvages aucune subordination. Les femmes y sont dévostes. C'est dans cette mission qu'il s'est estably un pélerinage à la dévotion de Catharine Thiatakoüita qui mourust en odeur de sainteté en 1680. Dans l'estendue de toute cette concession, il y a nombre de gros bois de toutes espèces. Les sauvages ont des déserts le long du fleuve où ils sèment du blé d'Inde, fèves d'haricots, citrouilles, melons, et soleils. Ils commercent à Montréal le surabondant de leur récolte. Outre cela ils font quantité de sucre d'érable et amassent l'herbe de capilaire qu'ils vendent aussy à la ville. Ce sont ordinairement les

[1] This tract of two square leagues, which lay on the south shore of the St. Lawrence adjoining the fief of Châteauguay, was on October 29, 1680, granted to the Jesuits (*Titres des Seigneuries*, 73). It was used by them as an Indian mission, and has now for a long period been made to serve as a reservation for the domiciliated Caughnawaga Indians.

femmes qui sont occupées à l'agriculture, l'occupation des hommes estant la chasse, la pesche et la guerre. Depuis quelques années ils se sont ouvert un commerce chez les anglois à Orange, où ils portent des castors et en rapportent des étoffes et autres marchandises qu'ils commercent chez eux et à Montréal, sans que la police les ait pu assujétir aux lois.

Les Seigneuries de la Prairie de la Magdelaine et de St. Lambert[1] appartiennent aux R. R. P. P. Jésuites. La paroisse est desservie par un des prestres du Séminaire de Montréal. La pluspart des terres qui y sont en culture estoient des prairies que les habitans ont desséchées par des fossés, ce qui les a rendues fertiles en toutes sortes de grains et [de] légumes, quoique sujettes à brumer. Les profondeurs sont la plupart terres basses. Sy elles estoient réduites à la culture [elles] produiroient abondamment toutes sortes de grains. Les bois y sont mélangés de toutes espèces. La chasse et la pesche dans les saisons y [sont] fort abondantes. Il y a quelque petit continent où les pommiers et autres fruitiers portent beaucoup de fruits.

La Seigneurie de Longueuil[2] appartient à M. le Baron de ce nom, lieutenant de Roy de Montréal. La paroisse est desservie par un prestre du Séminaire de Québek. Les terres n'y sont bonnes que par contrée, y ayant quantité de pierres,

[1] The lands comprised within the seigniories of La Prairie de la Magdelaine and St. Lambert, which were situated on the south side of the river, adjoining the mission of Sault St. Louis, were on April 1, 1647, granted to the Jesuit fathers (*Titres des Seigneuries*, 75). In 1773 they passed with the other Jesuit estates into the hands of the crown.

[2] Given on September 24, 1657, to Charles Lemoyne (*Titres des Seigneuries*, 99). In 1700 the eldest son of this original grantee became Baron de Longueuil (for the patent creating the barony, see above, pp. 66–69). The barony of Longueuil must not be confused with the seigniory of New Longueuil, which was granted at a much later date (April 21, 1734) to the Sieur Joseph Lemoine, Chevalier de Longueuil, captain of the marine (*Titres des Seigneuries*, 173). This latter seigniory was on the north side of the St. Lawrence, occupying part of the tongue of land formed by the confluence of this stream with the Ottawa.

et le reste de savannes et pays mouillés difficile à dessécher; cela n'empesche pas que le long du fleuve ne soit garny d'habitans fort à leur aise, mesme de riches, par les grosses despenses que le seigneur a faites pour les rendre meilleures, en faisant des fossés et en ostant les pierres qu'il a employées à faire un fort et de très belles maisons. Il y avoit mesme commencé un chemin de quatre lieues et demy, qui est fort avancé, de communication à Chambly, mais comme cela l'engageoit à une trop grosse dépense sans esperance d'en rien retirer, il l'a abandonné, malgré la nécessité qu'il y avoit de le perfectionner afin de pouvoir secourir en peu de tems le fort de Chambly s'il estoit attaqué, au lieu que le secours, à le conduire par eau, doit faire 36 lieues. Les terres qui y sont en culture produisent de bons grains et légumes, mais non pas si abondamment que sur les seigneuries voisines. Il se trouve sur la seigneurie quantité de bois de construction et en moyenne grosseur.

L'Isle S^te. Héleine,[1] qui est entre le Montréal et la d[ite] seigneurie, appartient au dit S^r. de Longueuil. Sa belle exposition et la bonne qualité des terres pour les arbres fruitiers l'ont invité à y planter un très beau verger, de la manière qu'ils commencent à rapporter. Il y a lieu d'espérer que dans dix ans il y fera plus de trois cens barriques de cidre, sans parler des fruits à noyau. La vigne de France a de la peine à porter son fruit en maturité. Il y avoit autrefois de très gros arbres qui la pluspart ont esté détruit pour servir de bois de chauffage à la ville. Ceux qui y viennent présentement sont taillés soigneusement par allées où un troupeau de brebis trouvent leur pacage.

La Seigneurie du Tremblay[2] appartient aux héritiers du

[1] St. Helen's Island in the St. Lawrence, fronting Montreal, was included in the original grant to Charles Lemoyne in 1657.

[2] Given on October 29, 1672, to the Sieur de Varennes, lieutenant in the Carignan regiment (*Titres des Seigneuries*, 126). This seigniory was of a peculiar shape, being only twenty-eight arpents in frontage by one-and-one-half leagues in depth. It lay between the seigniories of Longueuil and Boucherville.

feu S^r. de Varenne, cy-devant gouverneur des Trois Rivières. Cette seigneurie fait paroisse avec celle de Longueuil. Les terres y sont admirablement bonnes pour produire toutes sortes de grains et [de] légumes en abondance. Les habitans y sont fort laborieux et aisés. Toute la profondeur de la seigneurie est de mesme qualité. Les bois y sont mélangés de toute espèce. Le terroir n'est pas propre pour les arbres fruitiers que par quelque petite contrée.

Les Isles de Lamoreux, qui sont au-devant, relèvent de la seigneurie. Les terres y sont plus fertiles en toute sorte de grains et [de] légumes qu'en terre ferme. Les habitans qui les tiennent par concession à des rentes quoique fort hautes y sont presque tous riches; y ayant beaucoup de facilité à nourrir nombre de bestiaux. Il leur reste très peu de bois pour leur chauffage quoiqu'ils ont des ressources en terre ferme. Le terroir est assez bon pour les arbres fruitiers.

La Seigneurie de Boucherville[1] appartient à M^r. Boucher, un des premiers gouverneurs des Trois Rivières, qui en fist sa démission en faveur de M^r. de Varenne son gendre. La paroisse est desservie par un des prestres du Séminaire de Montréal. La coste pour ce qu'elle contient est une des plus belles et des plus unies de Canada; les habitans y sont les plus aisés du gouvernement. Les terres y estant très fertiles en toutes sortes de grains et [de] légumes. Les arbres fruitiers n'y viennent que par petits cantons; les bois y sont mêlés de toute espèce. Les Isles[2] qui sont au-devant ont le

[1] Given on November 3, 1672, to Pierre Boucher (*Titres des Seigneuries*, 84). This seigniory lay on the south shore of the St. Lawrence between the fiefs of Tremblay and Varennes, having a frontage on the river of 114 lineal arpents and a depth of two leagues. In 1698 Boucher received a further grant of "the islands, shoals, and beaches which are opposite his seigniory as far as the middle of the River St. Lawrence" (*Ibid.*, 444). See R. P. Lalande, *Boucherville, une vieille seigneurie* (Montreal, 1890).

[2] These were the Isles Communes, or Isles Percées, which extended along the front of almost the whole seigniory, the largest one being about three-quarters of a mile in breadth. See Bouchette, *Topographical Description*, 198.

fond admirable pour produire toute sorte de grains et [de] légumes, mais le seigneur en a donné la plus grande partie aux habitans pour leur servir de commune, où ils eslèvent pendant l'esté une infinité de bestiaux de toute espèce.

La Seigneurie de Varenne[1] appartient au seigneur de ce nom, lieutenant dans les troupes. La paroisse est desservie par un prestre du Séminaire de Québek. Les terres n'y sont pas directement si belles qu'à Boucherville, estant entrecoupées de petits costeaux et ravines. Cela n'empesche pas quelles n'y soyent également bonnes pour produire toute sorte de grains et [de] légumes, mesme pour les arbres fruitiers. Les habitans trouvèrent l'année dernière à 30 toises du fort, sur la terre de Louis le Doux, environ quatre vingt livres de mine de plomb, partie sur la terre et le reste à deux et trois pieds avant; ce qui obligea M. D'aigremont à s'y transporter et où il fist fouiller un trou, sans en avoir trouvé que très peu. La profondeur de cette seigneurie est presque toutes prairies et pays bas, où il y a très peu de gros bois.

L'Isle S^te^ Thérèse[2] appartient à M. de Langloiserie, lieutenant de Roy à Québek. Elle fait paroisse avec la Seigneurie de Varenne et de la Trinité. Les terres y sont des bonnes du gouvernement pour produire toute sorte de grains et [de] légumes. Aussy tous les habitans y sont fort à leur aise. Ils n'ont que très peu de bois, qu'ils conservent pour leur chauffage. Les isles, qui sont au haut de celle-cy, en sont moitié dépendantes, et les autres au Seigneur de Varenne où l'on coupe une très grande quantité

[1] René Gaultier de Varennes, lieutenant in the Carignan-Salières regiment, was the original recipient of this seigniory, on October 29, 1672 (*Titres des Seigneuries*, 126). It lay between the fiefs of Boucherville and La Trinité, with a frontage of twenty-eight lineal arpents and a depth of one league.

[2] First granted in 1672 to Sidrac Dugué (du Gué or Duguay), captain in the Carignans. The title is not printed in *Titres des Seigneuries*, but may be found in *Return made to the Legislative Assembly of Canada in 1853*, p. 28. Piot *dit* Langloiserie, who is here mentioned as the owner, obtained the island by marrying Marie-Thérèse, eldest daughter of the original grantee.

de foin. La chasse au gibier passager et la pesche y sont très abondantes.

De l'Isle S^te. Thérèse dépendent encore quatre isles qui sont au-dessous, qui ont le mesme avantage que celles du haut, sur l'une desquelles M. de Langloiserie a fait une belle métairie.

La Seigneurie de la Trinité[1] appartient au Sieur de St. Michel et aux héritiers du Sieur Martigny, qui a esté tué en 1709, à la Baye d'Hudson, à l'expédition que M^r. de Menteht avoit entrepris en ce pays. La dite seigneurie fait paroisse avec celle de Varenne et la Seigneurie de Grandmaison. Les terres y sont de mesme qualité qu'à Varenne et les profondeurs de mesme. À trois cens toises du bord du fleuve il y a une source d'eau sallée.

La Seigneurie de Grandmaison[2] appartient aux héritiers du sieur. Il y a très peu de terres que les habitans y s'ont establis quoique les terres, mesme les profondeurs, soyent de mesme qualité qu'à la Trinité, outre qu'il y a une plus grande estendue de prairie très aisée à mettre la charrue, et avantageuse pour nourrir nombre de bestiaux, n'y ayant presque point de bois sur sa devanture.

La Seigneurie de Verchères[3] appartient aux héritiers de

[1] The fief of La Trinité was given on November 3, 1672, to Jacques Lemoyne and Michel Messier de St. Michel. The title-deed is not printed, but reference is made to the grant in *Return made by the Inspector-general of the Queen's Domain to the Seigniorial Commissioners in 1842*. Some years later, probably about 1676, the grant was divided into two fiefs; but the date of this partition is not definitely known, "the rats having gnawed the deed" (*Actes de Foi et Hommage*, V. 249). One of the seigniories was thenceforth known as La Trinité, and remained the property of the Lemoynes de Martigny for over a century; the other, known as Cap St. Michel, was held by the descendants of Messier until the conquest. The original seigniory, one-and-one-half leagues square, comprised the territory between the fiefs of Varennes and Grandmaison.

[2] Known also as the seigniory of Guillaudière. The title-deed may be found in *Titres des Seigneuries*, 294.

[3] This fief, which was one league in front by two in depth, and lay on the south shore of the St. Lawrence between the seigniories of Guillaudière and

ce nom cy-devant, enseigne dans le régiment de Carignan et lieutenant réformé dans les troupes. Elle fait paroisse avec celles de Contrecœur et St. Ours. Les terres y sont très belles et unies qui produisent toute sorte de grains et [de] légumes en abondance. Les profondeurs pendant une lieue ne contiennent que des prairies où il se trouve une grande quantité d'un fruit que l'on appelle attoqua.[1] Il n'y a presque plus de bois dans tout ce continent. Les Iroquois ont désolés toutes ces costes pendant un très long-tems, et ce fust dans cet endroit que la fille du dit seigneur repoussa les ennemis qui estoient prests d'entrer dans ce fort et mesme tira du canon sur eux. Son action a esté gratifiée de Sa Majesté.[2]

Le fief de Chicouanne[3] ne contient d'autres habitans que le propriétaire laboureur. Les terres dans la devanture sont très belles, produisant toutes sortes de grains et [de] légumes. Les profondeurs contiennent des bois de toutes espèces apparence que les terres y sont bonnes. Ces terroirs ne sont point propres pour les arbres fruitiers.

Bellevue, was originally granted, on October 29, 1672, to François Jarret de Verchères, ensign in the Carignan regiment (*Titres des Seigneuries*, 6). This was the father of the dauntless young Amazon, Marie-Madeleine de Verchères, whose heroic defence of the seigniory against the Iroquois attack in 1692 has been so vividly narrated by Parkman in his *Count Frontenac and New France under Louis XIV.*, chap. xiv. The fief passed into the hands of Jean-Baptiste Jarret de Verchères, who rendered fealty and homage for it in 1723 (*Actes de Foi et Hommage*, II. 5).

[1] Cranberries. The word, still used in French Canada, is the Huron "toca," or "tocqua," which Sagard (*Histoire du Canada*, IV. Appendix) translates as "petit fruict, comme cerises rouges, qui n'a point de noyau."

[2] Through the intercession of Madame de Pontchartrain, wife of the minister of marine, Louis XIV. granted a life pension to Madeleine de Verchères.

[3] Better known as the seigniory of Bellevue. It was originally conceded to the Sieur de Vitré on November 3, 1672 (*Titres des Seigneuries*, 33). In 1678, however, it was sold to Pierre Boisseau, who in turn sold it to Pierre Chicoüanne, or Chicoine (*Actes de Foi et Hommage*, II. 20). Despite its lack of population, as noted by Catalogne, it was a large fief, being twenty-three arpents broad by two leagues deep, and filling the space between the seigniories of Verchères and Contrecœur.

Le fief de Boisseau[1] n'ayant d'autres tenanciers que le propriétaire laboureur. Les terres y sont de mesme qualité qu'au fief de Chicouanne.

La Seigneurie de Contrecœur[2] appartient au S^r. de la Corne, capitaine dans les troupes, et de Contrecœur enseigne, le p[remier] pour avoir espousé la fille du seigneur, et l'autre succédant aux droits de son père qui avoit esté capitaine dans le régiment de Carignan, et anobly par les belles actions qu'il avoit faites pendant les guerres de Paris. La paroisse est desservie par un des prestres du Séminaire de Montréal. Les terres y sont très belles, produisant toutes sortes de grains et [de] légumes. Les profondeurs qui contiennent des bois de toutes espèces sont entrecoupées de marais et petits lacs qui ont esté fait par les castors, où l'on en tuent tous les ans. Cette coste n'a pas esté exempte des incursions des Iroquois, ce qui a retardé un plus avancé establissement. Les habitans y paroissent assez aisé. Les Isles qui sont au-devant leurs sont fort avantageuses, où ils élèvent grand nombre de bestiaux.

La Seigneurie de St. Ours[3] appartient au seigneur de ce nom, cy-devant capitaine au régiment de Carignan, et ensuite dans les troupes du détachement de la marine, et à présent pensionnaire de Sa Majesté.[4] Cette seigneurie fait paroisse

[1] Sometimes called the seigniory of Boisselière, and originally a part of Bellevue.

[2] Antoine Pécody (or Pécaudy), Sieur de Contrecœur, captain in the Carignan regiment, was the original grantee, October 29, 1672 (*Titres des Seigneuries*, 96). In the year following he received an additional grant of the islands fronting his fief (*Ibid.*, 97). His eldest daughter, Marie, married Captain Jean-Louis Lacorne (or La Corne) in 1695 (Tanguay, *Dictionnaire Généalogique*, I. 469); and the son referred to was François-Antoine de Contrecœur, father of the later commandant of Fort Duquesne. A good description of the seigniory may be found in Bouchette's *Topographical Description*, 201–204.

[3] Given in 1672 to Pierre de St. Ours (*Titres des Seigneuries*, 111). The islands in the river fronting the grant, and including the large Isle Deschaillons, were granted to him in 1674 (*Ibid.*, 112).

[4] Royal assistance had been first extended to St. Ours as the result of a request made to the king in 1686 by Governor Denonville, who spoke in moving

avec celle de Contrecœur. Les terres dans les devantures n'y sont que médiocrement bonnes, et les habitans fort négligens, mesme entr'eux en mauvaise intelligence, ayant toujours quelque chose à démêler. Les profondeurs que coupe la Rivière de Richelieu sont plus belles, si on en doit juger par la qualité des bois qui sont dessus et les prairies qui les entrecoupent.

La Seigneurie de Sorel[1] est en décret depuis très longtems, sans que l'adjudication s'en suive. La paroisse est desservie par un des prestres du Séminaire de Montréal. Quoique la seigneurie ait une grand estendue et que les terres y soient très belles il y a peu d'habitans, les Iroquois en ayant détruit la plus grande partie. La situation est très belle et la plus convenable, et le seul entrepôt entre le Montréal, les Trois Rivières et Chambly. Il se trouve dans son estendue quantité de toute sorte de bois de construction, et sa situation paroist si avantageuse que l'on y pourroit placer plus de trois cens habitans favorisés de la chasse et de la pesche, qui s'y peut faire en tout tems. La pluspart des Isles de Richelieu dépendant de cette seigneurie en partie servent de commune aux habitans où ils pourroient nourrir grand nombre de bestiaux, et le reste mettre en culture qui produisse toutes sortes de grains et [de] légumes en abondance. La pluspart des bois

terms of the seignior's poverty and misery and of the hardships which his ten children were forced to undergo (Denonville to Minister, November 10, 1686, *Correspondance Générale*, VIII. 192–266). In 1708 Governor Vaudreuil asked that an annual pension be given to St. Ours, a request with which the king seems to have complied (Vaudreuil to Minister, November 5, 1708, *Ibid.*, XXVIII.).

[1] The seigniory of Saurel (or Sorel), which lay at the confluence of the St. Lawrence with the Richelieu, and included the present town of Sorel, was given in 1672 to Pierre de Saurel, captain in the Carignans (*Titres des Seigneuries*, 141). As Saurel, who died in 1682, had no direct heirs, the ownership of the seigniory became a matter of lengthy litigation, the Court of the Prévôté finally awarding it to Claude de Ramezay, governor of Three Rivers and of Montreal (the decisions of the Prévôté have not been printed). Many years later, in 1781, the fief was purchased by Sir Frederick Haldimand for the use of the government.

qui sont dessus, sont chesnes, ornes, érables, fresnes, noyers, bois blancs et trembles, avec une infinité de vignes sauvages.

L'Isle Dupas[1] appartient à Brinet,[2] laboureur, et à la veuve du Sablé.[3] Elle fait paroisse avec Berthier et Sorel. Les terres y sont très belles dans toute l'estendue quoique [de] la partie d'en bas environ un tier est sujette aux inondations, ce qui empesche que l'on la puisse mettre en culture, mais le reste produit toute sorte de grains et [de] légumes en abondance. Les bois y sont mêlés de toute espèce, excepté de gommers. La chasse et la pesche y sont abondantes.

La Seigneurie de Chambly[4] appartient au Sieur Hertel, lieutenant réformé dans les troupes, par la donnation que feu M. de Chambly luy a faite. La paroisse est desservie par un Père Récolet, missionnaire de la garnison du fort, qui y est bâty. Je ne crois pas que le Sieur Robert, qui copia les plans

[1] One of the large islands in the St. Lawrence fronting Berthier-en-Haut. It was given to the Sieur Dupas (or du Pas) in 1672 (*Titres des Seigneuries*, 118).

[2] Apparently an error of the copyist for "Brisset." Jacques Brisset had married Marguerite, daughter of Pierre Dandonneau, Sieur du Sablé (Tanguay, *Dictionnaire Généalogique*, I. 155), and sister of Louis Dandonneau, who had purchased the island from Dupas.

[3] Jean-Marguerite Lenoir, who had married Louis Dandonneau, Sieur du Sablé, in 1684. Her son, Louis-Adrien, did homage for half the fief in 1724, Jacques Brisset having performed the ceremony for the other half during the previous year (*Actes de Foi et Hommage*, II. 212, 309).

[4] Originally granted, October 29, 1672, to the Sieur Philippe de Chambly, captain in the Carignan regiment, and commandant of the troops remaining in Canada (*Titres des Seigneuries*, 267). The seigniory lay on both sides of the Richelieu near the site of the present town of Chambly, and was of unusual configuration, having a river frontage of three leagues and a depth of only one league. Chambly eventually went home to France, and some years later was killed in action in Italy. The fief then went to his fiancée and heiress, Marguerite de Thauvenet (or Thauvenay), who had originally come out to Canada to assist Madame de la Peltrie in her work of educating Indian maidens. Not long after Chambly's death, however, she married François Hertel, who thereby became proprietor of the fief. These were the parents of Jean-Baptiste Hertel, the destroyer of Deerfield in 1704. For the history of this interesting family, see Daniel's *Histoire des grandes familles françaises du Canada* (Montreal, 1867), 397–418.

du gouvernement de Montréal en 1708, y ait compris celuy de cette seigneurie que je joindray à ce manuscrit. Le front d'icelle est de trois lieues de chaque costé de la Rivière sur une lieue de profondeur. Le lac qui s'y trouve devant eu fait un bel ornement. Depuis le régiment de Carignan il y a toujours eu une garnison avec un fort de pieux. Il y a esté construit un fort de pierre et [de] chaux en 1710 et 1711, sur les plans qu'en a faits M. le chevalier de Beaucour,[1] capitaine dans les troupes. Il est à remarquer que l'année dernière il y avoit un camp de deux à trois mil hommes pour venir envahir le gouvernement de Montréal et lorsqu'ils apprisent la perfection de ce fort par où ils devoient absolument passer, ils quittèrent leur entreprise. La pluspart des terres de cette seigneurie sont très propres pour produire toutes sortes de grains et [de] légumes, mais le peu d'attention que donne le seigneur à son establissement fait qu'il n'y a que très peu d'habitans. Les bois de construction y sont plus beaux et abondans qu'au reste du gouvernement, particulièrement des pins. La Rivière de Richelieu, qui est bordée de très belles terres et de beaux bois, est fort négligée. Les seigneurs à qui elle a esté concédée n'y donnant aucune attention cependant où ils pourroient plaçer plus de mil habitans estant la seule du gouvernement qui tombe dans le fleuve qui a l'avantage de porter les barques.

Le gouvernement des Trois Rivières[2] comprend depuis les Isles de Richelieu jusques à S^te^ Anne des Grondines. Le Lac S^t^ Pierre et les Rivières qui y tombent font la teste du gouvernement où la pesche se fait en esté et en hiver. Celle d'hiver ce fait sous les glaces, où l'on tend des filets, par le moyen des cordeaux que l'on passe de trou en trou avec des

[1] *Cf.* Vaudreuil and Raudot to Minister, November 2, 1710, *Correspondance Générale*, XXXI.

[2] The "government," or district, of Three Rivers extended on the north side of the St. Lawrence from the seigniories of Berthier-en-Haut to Ste. Anne des Grondines, and on the south side from St. Ours-Deschaillons to Yamaska.

perches, nonobstant l'épaisseur de trois à quatre pieds de glace. La chasse au gibier passager le printems et l'automne y est très abondante par le grand nombre de bayes et marais qui s'y trouvent.

La Seigneurie de Maskinonges [1] est la p[remière] du costé du nord en descendant, qui appartient au S^r. Bruneau, cy-devant gros marchand aux Trois Rivières où il a tombé en faillite. Il n'y a point de paroisse fixée. Le curé des Trois Rivières là va desservir de mesme que celle de la Rivière du Loup et Yâmachiche. Les terres, quoique basses et sujettes à l'inondation, y sont très bonnes produisant abondamment toutes sortes de grains et [de] légumes. Les profondeurs sont entrecoupées de montagnes. Les sauvages avoient rapporté qu'il y avoit une mine d'argent qui n'a pas encore pu venir à la connoissance des François. Il y a de toute sorte de bois mélangé, mesme pour la construction.

Entre Maskinongez et la Rivière du Loup, il y a un reste de terre en bois debout, concédé aux Dames Ursulines de Trois Rivières.[2]

La Seigneurie de la Rivière du Loup [3] appartient au Sieur Beaubien, marchand, par l'acquisition qu'il en a faite du Sieur

[1] Maskinongé, or Masquinonge. Part of the seigniory was given to Jean Baptiste Le Gardeur, and part to him and Pierre Le Gardeur in common, both grants being made on the same date, November 3, 1672 (*Titres des Seigneuries*, 288, 303). About 1700 it was acquired by Joseph Petit *dit* Bruneau, of Three Rivers (*Actes de Foi et Hommage*, II. 306).

[2] This was the seigniory of St. Jean, granted to the Ursulines of Three Rivers on October 13, 1701 (*Titres des Seigneuries*, 450). In 1727 it was increased by the grant of a considerable adjoining tract (see *Return made to the Legislative Assembly of Canada in 1853*, p. 88). This fief ought not to be confused with the seigniory of St. Jean in the *banlieue* of Quebec.

[3] This is the seigniory of Rivière du Loup-en-Haut, first granted to Jean Lechasseur on April 20, 1683 (*Titres des Seigneuries*, 381). Lechasseur sold it to Michel Trottier de Beaubien (*Actes de Foi et Hommage*, II. 408), and the latter disposed of it to the Ursulines of Three Rivers. In giving the Sieur d'Artigny as the original owner, Bouchette (*Topographical Description*, 290) has confused this seigniory with the fief of Rivière du Loup-en-Bas, in the district of Quebec.

le Chasseur lieutenant-général de la juridiction des Trois Rivières. Les terres y sont fort basses et unies, fertiles en toute sorte de grains et [de] légumes. Il y a de toute sorte de bois mélangés.

La Seigneurie du petit Yamachiche [1] appartient à la veuve du S^r. Grand Pré, cy-devant major des Trois Rivières. Les terres y sont basses et unies sujettes aux grandes inondations; néantmoins [elles] produisent toutes sortes de grains et [de] légumes. Les bois y sont mélangés de toutes espèces.

La Seigneurie du grand Yamachiche appartient aux Les Sieurs,[2] laboureurs, par l'acquisition qu'ils en ont faite de M. Boucher, cy-devant gouverneur des Trois Rivières. Les terres et bois y sont assez conformes à celles du petit Yamachiche.

La Seigneurie en descendant [3] n'a aucun habitans. Elle appartient au Sieur de Boucherville, enseigne dans les troupes. Les terres et bois y sont de mesme qualité que celles cy-devant.

La Seigneurie de la Pointe du Lac,[4] qui en est le bout du costé du nord, appartient au Sieur de Tonnancour, procureur du Roy, aux Trois Rivières. Comme les terres n'y sont bonnes

[1] More often called the fief of Grosbois. It was first given to Boucher de Grand Pré in 1672 (*Titres des Seigneuries*, 310). Boucher died in 1699, but his widow survived him till 1730 (Tanguay, *Dictionnaire Généalogique*, I. 73).

[2] In 1702 two brothers, Charles and Julien Le Sieur, bought a portion of Grosbois, not, as Catalogne states, from Boucher himself, but from his heirs. See *Actes de Foi et Hommage*, II. 74; also Napoléon Caron, *Histoire de la paroisse d'Yamachiche* (Trois-Rivières, 1892).

[3] This is evidently the seigniory of Gatineau, granted in 1672 to Boucher de Boucherville the younger (*Titres des Seigneuries*, 31). In the same year in which Catalogne's report was made (1712) it was acquired from Boucher by Louis Gatineau Duplessis, and hence received the name by which it has since been known (cf. *Actes de Foi et Hommage*, II. 107). The family of Duplessis later received an augmentation of the fief (*Titres des Seigneuries*, 222).

[4] This seigniory, more commonly known as the fief of Tonnancour, was made up of the combined seigniories of Sauvaget and Normanville, together with additional smaller tracts of land granted at various times to Louis Godfroy de Normanville and his son René Godfroy de Tonnancour. See *Titres des Seigneuries*, 119, 410; also P. G. Roy, *La famille Godefroy de Tonnancourt* (Lévis, 1904).

que par contrées et qu'elles sont de difficile abord pour les voitures, il n'y a qu'un habitan. Les bois sont mélangés de toute espèce. À la fin se trouve le domaine du Roy qui devoit estre implanté.

La Seigneurie du Cap de la Magdelaine [1] appartient aux Pères Jésuites. La paroisse est desservie par un prestre du Séminaire de Québek. Les terres y sont fort sablonneuses, où se trouve[nt] des mines de fer, mesme en abondance. Les grains et légumes n'y sont produits qu'à force de bien fumer et cultiver les terres. Il n'y a presque plus de bois. Les habitans sont contraints d'en aller chercher du costé du sud du fleuve.

Le fief La Pierre [2] appartient aux héritiers de ce nom, laboureurs. Les terres y sont fort sablonneuses et basses, où il se trouve des mines de fer. Il n'y a point de terre en culture. Les bois dans la profondeur sont mélangés de toutes espèces.

Le fief des Prairies Marsolet [3] appartient à celuy qui fait

[1] Granted to the Jesuits by the Company of New France in 1651, "in order that we may be participating in their prayers and holy sacrifices" (*Titles and Documents relating to the Seigniorial Tenure*, II. 349). It was two leagues by four in area, and lay at the confluence of the St. Lawrence with the St. Maurice.

[2] Catalogne errs, apparently, in including this among the regular seigniories. It was a small grant held *en arrière-fief* from the Jesuits within their seigniory of Cap de la Magdelaine. In all probability it took its name from its owner, Charles Le Sieur *dit* Lapierre.

[3] The exact date of this grant, which lay between the seigniories of Champlain and Batiscan, is not known. The title-deed is not preserved, and there is in the *Actes de Foi et Hommage* no record whatever of the fief. It must have been conceded, however, between 1664 and 1681; for it was not in existence when the seigniory of Champlain was founded in the former year, and it is mentioned in the census enumeration of the latter year as having three settlers. In each succeeding census down to and including that of 1706, it appears as a separate seigniory, but in the later censuses it is not referred to. It is, however, mentioned in 1716 as belonging to Catalogne (*Édits et Ordonnances*, III. 440); and again in 1722, in the edict providing for the creation of parishes, the "fief de Marsolet" is included within the parish of Champlain (*Ibid.*, I. 452). The grantee of the fief was apparently Nicholas Marsolet, who had come out to Quebec with Champlain in 1613. Marsolet had no sons; but

ce manuscrit, par l'acquisition qu'il en a faite des héritiers. Les habitans relèvent de la paroisse de Champlain. Les terres y sont fort unies entrecoupées de savannes et prairies. Les terres réduites à la culture produisent toutes sortes de grains et de légumes. Les bois dans les profondeurs sont mélangés de toutes espèces.

Le fief Hertel [1] appartient au seigneur de ce nom, Seigneur de Chambly. Les habitans dépendent de la paroisse de Champlain. Les terres et les bois y sont de mesme qualité qu'aux Prairies Marsolet. Il s'y trouve aussy des mines de fer.

La Seigneurie de Champlain [2] appartient au fils aisné de ce nom, et à M^r. de Cabanac, capitaine dans les troupes, comme ayant espousé une des filles du seigneur. La paroisse est desservie par un des prestres du Séminaire de Québec. Il y a un établissement des filles de la Congrégation. Les terres y sont belles et unies, mais sablonneuses, mélangés de mines de fer. Celles qui sont bien cultivées et fumées produisent de très bons grains et légumes. Les habitans y sont très aisés. Ils ont fort peu de bois de chauffage, estant contraints de brûler des bois gommeux, ou en aller chercher du costé du sud du fleuve.

(La Seigneurie de Batiscan doit avoir icy sa place.)

one of his daughters married Jean Lemire, who in this way seems to have become possessed of the fief. Catalogne's ownership of the seigniory in 1712 may be explained by the fact that in 1690 he had married Marie-Anne, daughter of Jean Lemire (Tanguay, *Dictionnaire Généalogique*, I. 378).

[1] More commonly known as Arbre-à-la-Croix. It was a sub-seigniory, granted on April 5, 1644, to Jacques Hertel by the Jesuit seigniors of Cap de la Magdelaine. For its extent and location, see *Édits et Ordonnances*, I. 452. It passed into the hands of Hertel de Chambly, son of the original grantee (see above, p. 117, note 4), and remained in the possession of this family for a long period.

[2] This seigniory, which lay between Cap de la Magdelaine and Batiscan, was first given on August 8, 1664, to Étienne Pezard, Sieur de la Touche (*Titles and Documents*, I. 681). An augmentation was granted to his widow on April 28, 1697 (*Titres des Seigneuries*, 117). In 1691 Madeleine Pezard, their daughter, married Joseph Desjordy, Sieur de Cabanac, who is here mentioned as part owner of the seigniory.

La Seigneurie du Moine[1] appartient aux héritiers de ce nom, laboureurs. Les habitans dépendent de la paroisse de S^te.^ Anne. Les terres y sont basses et unies, fertiles en toutes sortes de grains et de légumes. Les bois y sont mélangés de toutes espèces.

La Seigneurie de Baptiscan,[2] [que j'] omis de mettre après celle de Champlain, appartient aux Pères Jésuites. La paroisse est desservie par un prestre du Séminaire de Québec. Les terres y sont très belles et unies, fertiles en toute sorte de grains et de légumes. Ses 1^ères^ concessions sont dépourvues de bois. Ils sont obligés d'en aller chercher dans les profondeurs et du costé du sud du fleuve.

La Seigneurie de S^te.^ Anne[3] appartient au S^r.^ de la Pérade, lieutenant réformé dans les troupes, et à un des enfans de St. Romain[4] par la [cession] que luy en a faite le feu S^r.^ de Süeue, conseigneur, avec le dit S^r.^ de la Pérade. La paroisse est desservie par un prestre du Séminaire de Québec. Les terres y sont très belles et unies par contrées. Celles qui sont en culture produisent abondamment toutes sortes de grains et de légumes. Les bois y sont mélangés de toutes espèces.

La Seigneurie de Yamasca,[5] qui fait la teste du gouverne-

[1] Generally known as the seigniory of Ste. Marie près Batiscan, and given to Jean Le Moyne (or Lemoine), "habitant of Cap de la Magdelaine," on November 3, 1672 (*Titres des Seigneuries*, 28).

[2] Batiscan, "given for the love of God" to the Jesuits on March 13, 1639. The title-deed is not printed, but an abstract may be found in Bouchette's *Topographical Dictionary*, under "Jesuits' Estates."

[3] Ste. Anne de la Pérade was granted on October 29, 1672, jointly to Edmond de Suevé (the printed copy of the title-deed reads "de Sueur") and Jacques-Thomas Tarieu de Lanaudière (*Titres des Seigneuries*, 10, 275).

[4] Edmond de Suevé sold his share of Ste. Anne to the Sieur Edmond de Champlain, whose son was Chorel de St. Romain, here mentioned by Catalogne in 1712. After 1714 this part of the fief was known as the seigniory of Orvilliers. See *Actes de Foi et Hommage*, IV. 48.

[5] Yamaska was originally given on September 24, 1663, to Michel Le Neuf de la Vallière (*Titres des Seigneuries*, 79). The *Actes de Foi et Hommage* (II. 182) record that Pierre Petit, the former merchant at Three Rivers, purchased the fief directly from the original grantee; whereas Catalogne

ment des Trois Rivières du costé du sudest, appartient au Sieur Petit, cy-devant marchand aux Trois Rivières, par l'acquisition qu'il en a faite du feu Sieur de la Chesnaye. Elle fait paroisse avec celle de St. François. Les terres y sont basses et unies. Celles qui sont en culture produisent abondamment toutes sortes de grains et de légumes. La chasse et la pesche y sont fort abondantes. Il y a de toutes sortes de bois mélangés, mesme pour construction.

La Seigneurie de St. François[1] appartient aux héritiers du Sieur Crévier. Elle est desservie par les Pères Jésuites, missionaires des sauvages Abenakis, établis au dit lieu. Les terres y sont très belles et unies, particulièrement les isles, fertiles en toutes sortes de grains et de légumes. Les bois y sont mélangés de toutes espèces. La chasse et la pesche sont abondantes.

La Seigneurie de Luçeaudière[2] n'a point d'habitans. Les voisins n'en connoissent point le seigneur. Les terres y paroissent très belles, où il y a toutes sortes de bois particulièrement de gros pins.

mentions the Sieur de la Chesnaye as an intervening owner. It is true that in 1702 Louis Aubert de la Chesnaye married a daughter of Le Neuf de la Vallière, and might in this way have come into possession of the seigniory; but, according to Tanguay (*Dictionnaire Généalogique*, I. 14), he was still alive many years after 1712. The seigniory passed later into the hands of the Godfroys de Tonnancour.

[1] Conceded to Jean Crevier on October 8, 1678 (*Titles and Documents*, I. 354).

[2] Lussaudière, so called because first granted to the Sieur de Lussaudière (the deed reads "de la Hussodière"), November 3, 1672 (*Titres des Seigneuries*, 284). On July 26, 1683, the grant was revoked because progress had not been made in clearing the fief, and a new title was issued to Dominique de La Motte, Sieur de Lucières (*Ibid.*, 131). Marie-Alixe de la Feuille, widow of the Sieur de Lucières, who died in 1700 (Tanguay, *Dictionnaire Généalogique*, I. 169), gave the fief to the Gentlemen of the Seminary of St. Sulpice, who in turn sold it to Pierre Raimbault, a "furniture merchant" of Montreal. It is not clear from the *Actes de Foi et Hommage* (III. 44) whether this sale took place before or after 1712; but the probability is that Raimbault was seignior at the time Catalogne wrote his report. At any rate, the engineer may be pardoned for not knowing definitely to whom the fief belonged.

La Seigneurie de St. Antoine ou Baye du Febvre[1] appartient au seigneur de ce dernier nom. Les habitans, ceux de Nicolet et Godeffroy, dépendent de la paroisse des Trois Rivières. Les terres y sont assez belles, un peu pierreuses, produisant médiocrement toutes sortes de grains et [de] légumes. La chasse et la pesche abondantes, les bois mélangés de toutes espèces.

La Seigneurie de Nicolet[2] appartient au Sieur Courval, marchand aux Trois Rivières. Les terres y sont assez belles mais entrecoupées de costeaux et marais. Celles qui y sont en culture produisent toutes sortes de grains et [de] légumes, mais non pas abondamment. Il y a de toutes sortes de bois meslés. La chasse et la pesche y sont abondantes particulièrement à l'anguille et saumons.

La Seigneurie de Godeffroy[3] est divisée aux héritiers

[1] More commonly written Baie St. Antoine, or Lefèbre. This fief, which lay on the south shore of the St. Lawrence, between the seigniories of Lussaudière and Nicolet, was first granted on September 4, 1683, to Jacques Lefèbre, "habitant of Three Rivers" (*Titres des Seigneuries*, 117).

[2] Nicolet was first given, October 29, 1672, to the Sieur de Laubia, captain in the Régiment de Broglie (*Titres des Seigneuries*, 26). From him it was purchased by Michel Cressé, whose eldest daughter, Louise, married in 1696 Jean-Baptiste Poulin (or Poulain) de Courval (Tanguay, *Dictionnaire Généalogique*, I. 149), who is here mentioned as the owner. The original grant was augmented in 1680 by the addition of Isle à la Fourche (*Titres des Seigneuries*, 18), but the seigniory was later split into the three fiefs of Nicolet, Cressé, and Courval. These were, however, almost completely reunited into a single fief by Colonel Kennelm Connor Chandler, who held it down to the time of the abolition of the seigniorial system in 1854. The history of the seigniory is given in *Actes de Foi et Hommage*, II. 45; IV. 11, 16; VI. 84, 205, 269, 464.

[3] Jean-Baptiste Godfroy (sometimes written Godefroy) de Linctot received the grant in 1637. The original title-deed is not printed; but the concession is mentioned in the manuscript *Cahiers d'Intendance* (I. 151) at Quebec as having been made on December 1 of that year. As Godfroy de Linctot had several children, among them Louis Godfroy de Normanville (see above, p. 120, note 4), the fief eventually became badly dismembered. When, in 1723, René Godfroy de Tonnancour, grandson of the original concessionaire, did fealty at Quebec for himself and his co-heirs, it had become almost hopelessly split up among the sons and grandsons of the first owner. See *Actes de Foi et Hommage*, II. 189.

ainsy qu'il est marqué sur le plan. Les terres n'y sont que médiocrement bonnes, les unes pierreuses en partie mouillées. Celles qui ont esté mises en culture produisent d'assez bon grains et légumes. Il y a de toutes sortes de bois mêlés.

La Seigneurie de Bécancourt ou Rivière Püante[1] appartient au Sieur de Bécancourt, grand voyer en ce pays. Il y a sur cette seigneurie une mission d'Abenakis établis, qui font paroisse avec les habitans desservie par un Père Jésuite. Les terres y sont très bonnes, produisant toutes sortes de grains et de légumes. Il y a de gros bois de toutes espèces.

La Seigneurie de Bequet[2] appartient au Sieur Leurard maître-canonnier à Québek. Elle n'est establie que depuis peu par la difficulté que produit les escores qui bordent le fleuve, estant presque inaccessible, quoique sur cette hauteur les terres y soyent très belles et unies, entrecoupées de ravines qui font souvent des esboulemens par la disposition de terres qui sont mélangées de glaise et sable, produisant cependant toutes sortes de grains et de légumes, mais non pas si abondamment que celles qui luy sont exposées du costé du nord. Il y a de toutes sortes de bois mélangés.

[1] Originally granted, April 16, 1647, to Pierre Le Gardeur de Repentigny (*Titres des Seigneuries*, 361). Augmentations were given in May, 1647, and in 1661 (*Ibid.*, 363). Sometime later the fief was sold by virtue of a judgment issued against Charles Le Gardeur de Villiers, son of the original grantee ; and in due course it passed into the possession of René Robineau de Bécancour, Baron de Portneuf (*Actes de Foi et Hommage*, II. 312 ; also above, p. 53). In 1712 it was held by his son, Pierre Robineau de Bécancour.

[2] Commonly known as Lévrard, or Saint-Pierre les Becquets. It was first granted, April 27, 1683, to Marie-Louise and Catherine-Angélique Becquet, daughters of Romain Becquet, royal notary of Quebec (*Titres des Seigneuries*, 25). The latter of the two sisters married, in 1703, Louis Lévrard, master-gunner at Quebec (Tanguay, *Dictionnaire Généalogique*, I. 392), who thus became owner of part of the fief, and a little later, on the demise of his sister-in-law, succeeded in his wife's name to the remainder. The seigniory remained in the hands of the Lévrards until after the British conquest, when it was sold to the Lemoynes of Longueuil (*Actes de Foi et Hommage*, IV. 274). It included Isle Madame (below the Island of Orleans), which had been given to Romain Becquet in 1672 (*Titres des Seigneuries*, 25).

La Seigneurie de la Rivière du Chesne[1] appartient à M. de St. Ours, qui termine le gouvernement des Trois Rivières du costé du sudest. Elle fait paroisse avec la seigneurie de Lotbinière. Les terres y sont extrèmement hautes sur le bord du fleuve, de mesme qu'à la Seigneurie de Bequet, mais unies par en haut. Celles qui y sont en culture produisent passablement toutes sortes de grains et [de] légumes. Il y a de toutes sortes de bois mélangés. La pesche à l'anguille s'y fait abondamment par le moyen de nasses qu'ils tendent à la faveur de la marée.

Le gouvernement de Québek[2] commence du costé du nord en descendant aux Grondines, et du costé du sud de la Rivière du Chesne en haut de Lotbinière.

La Seigneurie des Grondines[3] appartient au nommé Amelin, laboureur. Le nom de cette seigneurie vient du grand nombre de battures de gros cailloux qui se trouvent au devant, ce qui fait que lorsqu'il vente un gros vent les eaux y font un grand bruit et le passage des canots et batteaux est

[1] This fief is referred to in different records under the names of Rivière du Chêne, St. Ours Deschaillons, and St. Jean Deschaillons. It consisted originally of Isle Deschaillons and adjacent islands, granted on April 24, 1674, to Pierre de St. Ours (*Titres des Seigneuries*, 111 ; *cf.* also above, p. 115). An augmentation was given in 1752 to Roch de St. Ours, Sieur Deschaillons (*Titres des Seigneuries*, 230).

[2] The "government," or district, of Quebec extended along the north shore of the St. Lawrence from the western boundary of the seigniory of Grondines to the eastward limits of French jurisdiction. On the south shore it comprised the territory from the seigniory of Rivière du Chêne, or St. Ours Deschaillons, eastward to the Acadian boundary.

[3] Grondines was first given, December 1, 1637, to Madame de Combalot, Duchesse d'Aiguillon, as an endowment for the Convent of the Dames Hospitalières at Quebec (*Titres des Seigneuries*, 32). In 1672 a considerable tract was added by royal grant (*Ibid.*, 36). The authorities of the convent-hospital sold the fief to Jacques Aubert, whose daughter Antoinette married Louis Hamelin in 1679 (Tanguay, *Dictionnaire Généalogique*, I. 14). Hamelin received an addition to the fief in 1698 (*Titres des Seigneuries*, 443), and a further augmentation in 1711 "in consideration of the services which he has rendered this colony during the last twenty years as captain of the militia" (*Ibid.*, 37). The seigniory is referred to in the *Actes de Foi et Hommage* under the name of St. Charles de Roches.

très dangereux. Elle fait paroisse avec la Seigneurie de S^te. Anne. Les terres n'y sont que médiocrement bonnes estant mélangées de carrières et gros cailloux et entrecoupées de costeaux. Il y a des contrées qui produisent de bon grain et légumes, mais non pas en abondance. Quoique les bois naturels y sont fort gros, il y en a de toutes espèces. On y pesche peu d'anguille, mais la chasse au gibier est abondante sur les bâtures.

La Seigneurie de la Chêvrotière[1] appartient au seigneur de ce nom, employé à la sous ferme de Tadoussac. Elle fait paroisse avec la Seigneurie de l'Eschambault et Port Neuf. Les terres y sont médiocrement bonnes sur la devanture. Les profondeurs sont meilleures. On n'y recueille pas beaucoup de grain mais très bon. Les bois y sont trop gros et mélangés de toutes espèces.

La Seigneurie de l'Eschambault[2] appartient au seigneur de ce nom, lieutenant-général de la juridiction de Montréal. Les terres y sont fort basses et mouillées, que l'on assèche par le moyen de fossés, ce qui les rend fertiles en toutes sortes de grains et [de] légumes. La pesche à l'anguille y est très abondante. C'est au devant de cette seigneurie qu'est le petit Richelieu. La mer estant basse le chenal y est fort étroit et rapide, qui laisse à droit et à gauche une grande estendue de battures. Cette seigneurie contient plus de bois de sapinage que d'autres.

[1] La Chevrotière was first granted to Madame de la Tesserie on November 3, 1673 (*Titres des Seigneuries*, 15). From her it passed to her son, François de Chavigny, Sieur de la Chevrotière, who received a considerable addition in 1698 (*Ibid.*, 16).

[2] Eschambault was first given, December 4, 1640, to François de Chavigny, Sieur de Berchereau, father of the seignior mentioned in the preceding note (*Titres des Seigneuries*, 375). Chavigny later went back to France, "abandoning all that he possessed in the colony"; whereupon the authorities, in 1652, vested the ownership of the seigniory in his wife, Eléonore de Grandmaison (*Ibid.*, 378). Her daughter, Marguerite, married Jacques-Alexis de Fleury, Sieur d'Eschambault, an officer of the royal court at Montreal, to whom Catalogne here makes reference (Tanguay, *Dictionnaire Généalogique*, I. 164).

La Seigneurie de Port Neuf[1] érigée en baronie, appartient à un des cadets de la famille de Bécancourt. La paroisse est desservie par un prestre du Séminaire de Québek. Les terres n'y sont bonnes qu'autant quelles y sont bien cultivées pour produire des grains et légumes, estant naturellement fort maigres et entrecoupées de costeaux fort hauts. Le seul avantage est la pesche à l'anguille qui y est très abondante. Les bois sont la pluspart sapinage.

Le fief près de la Rivière à Jacques Quartier,[2] nom d'un des premiers découvreurs de ce pays, appartient à M. Dauteuil, cy-devant procureur-général au Conseil Supérieur de Québek. Les terres y sont fort hautes sur le bord du fleuve et unies par en haut. Il n'y a qu'un seul habitant avec peu de désert. Sa principale occupation est à la pesche à l'anguille, quoique les terres y paroissent passablement bonnes. Les bois sont la pluspart sapinage.

La Seigneurie de la Pointe aux Escureuils[3] appartient au nommé du Sault, maître de barque, faisant paroisse avec la Pointe au Tremble. Les terres y sont très hautes sur le bord du fleuve, et unies dans les profondeurs où elles sont bonnes

[1] The seigniory of Portneuf was first granted, April 16, 1647, to Jacques Leneuf de la Poterie (*Titres des Seigneuries*, 104). The title-deed recites the fact that more than ten years previously the Company of One Hundred Associates had promised Leneuf a seigniory, but that a deed had not been issued. The daughter of the original grantee, Marie-Anne, married René Robineau de Bécancour, who thus became owner. In 1681 the seigniory was elevated to the "title and dignity of a barony" (for the patent, see above, p. 53).

[2] More commonly known as the seigniory of Auteuil. It was first given, May 29, 1649, to Anne Gagnier, widow of Clément Duvault de Monceaux (*Titres des Seigneuries*, 344). Her daughter, Claire-Françoise, married Denis-Joseph d'Auteuil, attorney-general of the colony (Tanguay, *Dictionnaire Généalogique*, I. 159). From them the fief passed to their son, François-Madeleine, who on February 15, 1693, received an augmentation of its area (*Titres des Seigneuries*, 149). The younger D'Auteuil, who held the combined seigniories in 1712, was also attorney-general.

[3] Usually called the fief of Belair. It was first given, November 3, 1672, to Toussaint Toupin, "maître de barque, bourgeois de Québec," and his son Jean Toupin, Sieur du Sault (*Titres des Seigneuries*, 68). The latter was in possession at the date of the report.

pour produire toutes sortes de grains et [de] légumes. La pesche à l'anguille très abondante et les bois y sont mélangés de toutes espèces.

La Seigneurie de la Pointe au Tremble, ou Neuville,[1] appartient à M. Dupont, conseiller au Conseil Supérieur. La paroisse est desservie par un prestre du Séminaire de Québek. Les terres y sont fort hautes et s'élèvent en amphithéâtre, environ une demy lieue, entrecoupées de ravines. Quoique les terres paroissent maigres et mélangées de roches, par le grand soin des habitans elles produisent toutes sortes de grains et [de] légumes, et c'est ordinairement sept à huit minots pour un de semé. Il y a nombre de carrières de pierres à chaux et pierres propres pour la taille. Il n'y a des bois que dans la profondeur mélangés de toutes espèces. La pesche à l'anguille y est abondante.

La Seigneurie de Demaure[2] appartient au seigneur de ce nom, receveur des castors au bureau des fermes à Québek. La paroisse est desservie par un prestre du Séminaire de Québek. Les terres sur le bord du fleuve, du moins la plus grande partie sont fort hautes et ensuite très unies, en penchant du costé du nordoüest où elles sont assez bonnes et produisent toutes sortes de grains et [de] légumes. Les bois sont mélangés de toutes espèces, mais plus gommeux que d'autres. La pesche à l'anguille s'y fait aussy.

La Seigneurie de Goderville et Fossembault[3] appartient

[1] This fief was first granted, December 15, 1653, to Jean Bourdon, first surveyor-general of New France (*Titres des Seigneuries*, 390). It passed to his son, Jean-François, who sold it to Nicholas Dupont, Sieur de Neuville, and member of the Superior Council at Quebec (*Actes de Foi et Hommage*, II. 452).

[2] Later known as the seigniory of St. Augustin. I have been unable to find any official record relating to the date or the terms of the original grant; but it must have been made before 1675, for the seigniory is mentioned in a decree issued by the Council in that year. See *Édits et Ordonnances*, II. 62–63.

[3] Gaudarville was originally given, February 8, 1652, to Louis de Lauzon, Sieur de la Citière (*Titres des Seigneuries*, 383). His widow married Jean-Baptiste Peuvret (Tanguay, *Dictionnaire Généalogique*, I. 449), royal greffier and member of the Sovereign Council, who died in 1697. The seigniory

aux héritiers du feu Sieur Peuvret, greffier-en-chef au Conseil Supérieur. Elle fait paroisse avec l'ancienne L'horette. Les terres sur le bord du fleuve y sont fort hautes et maigres, de couleur rougeastre. Aussy l'appelle-t-on le Cap Rouge, et en tirant dans la profondeur les terres se plongent du costé du nordoüest, où se forme une plaine qui s'élève ensuite en pente douce, jusques aux montagnes, environ quatre lieues dans la plaine. Les terres y sont très bonnes, qui produisent abondamment toutes sortes de grains et [de] légumes. La pesche à l'anguille s'y fait. Les bois y sont mélangés de toutes espèces, plus de sapinage que d'autres.

La Seigneurie de Bonhomme[1] appartient au seigneur de ce nom, laboureur, qui est encore dans ces bois naturels mélangés de toutes espèces.

La Seigneurie de Sillery[2] appartient aux P. Jésuites et comprend quatre paroisses, sçavoir, S^t. François, S^te. Foy, la vieille et nouvelle L'horette. Les deux 1^ères font front sur le fleuve, où les terres sont extrèmement hautes. Cependant sur la hauteur [elles] sont unies et descendent en pente, donnant jusques à la Rivière S^t. Charles. Elles sont desservies par les prestres du Séminaire de Québek. Les terres y sont médiocrement bonnes pour produire toutes sortes de grains et [de] légumes. Il n'y a presque plus de bois. Le peu qu'il y en reste est sapinage, quelques érables parmi. On commence à y planter des pommiers qui y viennent assez bien. Il y a l'église de Sillery bâtie sur le bord du fleuve, que les Pères

of Faussembault, which Catalogne mentions with Gaudarville, was given February 20, 1693, to Alexandre Peuvret, son of Jean-Baptiste (*Titres des Seigneuries*, 406). Alexandre Peuvret died in 1702.

[1] Granted on November 24, 1682, to Guillaume Bonhomme (*Titres des Seigneuries*, 49).

[2] This seigniory was given to the Jesuits by the Company of One Hundred Associates on March 13, 1651, with full and entire exemption from all feudal dues and services, being intended for use as an Indian mission (*Titres des Seigneuries*, 50). In 1699 the Jesuits' title to the fief was confirmed by the crown (*Ibid.*, 51). See also Léon Gérin on "La seigneurie de Sillery," in Royal Society of Canada, *Proceedings*, 1900, *Mémoires*, sec. i. 73–115.

Jésuites sont obligés d'entretenir, suivant l'intention du donataire. Sur son front on fait la pesche à l'anguille.

L'ancienne L'horette[1] est desservie par un des prestres du Séminaire de Québek, où estoit autrefois la mission des Hurons, qui se sont transportés à la nouvelle L'horette,[2] où la mission est desservie par le R. P. d'Avaugour, Jésuite. Les terres de ces deux paroisses s'élèvent en pente douce du costé du nordoüest, où elles sont très bonnes pour produire toutes sortes de grains et [de] légumes et arbres fruitiers par l'exposition avantageuse au soleil levant jusques au couchant. Le génie de ce missionaire a obtenu de tous ces sauvages qu'ils ne boivent aucune boisson enyvrante [*i.e.* nuisible]. Il seroit à souhaiter que toutes les autres nations voulussent les imiter ; par là on couperoit la racine à tous les désordres que cause l'ivrognerie parmis les nations d'en haut. Les profondeurs de cette seigneurie se terminent sur de hautes montagnes, où se trouve[nt] des lacs où l'on pesche beaucoup de truites, particulièrement en hiver sous les glaces. Les bois y sont mélangés de toutes espèces.

La Seigneurie de S^t^ Bernard et S^t^ Antoine[3] appartient aux Dames Religieuses de l'hostel Dieu, dépendant de la cathédrale et de Charlesbourg. Les terres sur le bord du fleuve sont un peu hautes, qui ensuite forment une espèce de plaine qui produit une pente qui se perd à la Rivière S^t^ Charles, et ensuite se lève imperceptiblement jusques aux montagnes. Les terres y sont très fertiles pour toutes sortes de grains et de légumes et [d'] arbres fruitiers. Il n'y reste que des bois de sapinage.

[1] La Vieille Lorette.

[2] La Jeune Lorette.

[3] These seem to be the fiefs of St. Ignace and St. Gabriel. Both were originally granted, April 11, 1647, to Robert Giffard de Beauport (*Titres des Seigneuries*, 47–48). Giffard donated both fiefs to the Ladies of the Hôtel Dieu at Quebec, St. Ignace being given on October 1, 1647, and St. Gabriel on November 2, 1667. I have not found the official records of these conveyances, but they are mentioned in Dunkin's *Address at the Bar of the Legislative Assembly*, Appendix, p. 13, and in Bouchette's *Topographical Dictionary*, 408.

Québek et son [sa] banlieue dépend du domaine du Roy,[1] quoique les communautés tant dans la ville qu'au dehors en occupent la plus grande partie. Sa situation sur le bord du fleuve excepté la basse ville est fort haute, la pluspart rochers, peu de terre par dessus, où il seroit difficile d'ouvrir la tranchée. Cependant on a trouvé le moyen d'y pratiquer des jardins, tant en minant des rochers qu'en y transportant des terres. Par ce moyen les jardins rapportent toutes sortes de légumes et fruits, mesme en abondance. Les environs de l'hospital général sont terres basses, fertiles en toutes sortes de grains, légumes et pacages. La chasse au petit gibier y est très abondante.

La Seigneurie qui comprend Charlesbourg, l'Auvergne et Bourg Royal[2] appartient aux P. Jésuites. Le tout fait paroisse a[vec] Charlesbourg, desservie par un des prestres du Séminaire de Québek. Le reste de la Seigneurie dépend de la cathédrale et de la paroisse de Beauport, ainsy que les

[1] The lands within the town of Quebec were not granted *en fief*, but were given in small lots to be holden *en censive* directly from the crown, the dues to be paid directly to the royal greffier. These, with some few farms at Detroit, were the only *en censive* grants made by the crown in New France. On this point, see Munro's *Seigniorial System in Canada*, 79.

[2] This is the seigniory of Notre Dame des Anges, first given, March 10, 1626, by the Duc de Ventadour to the Jesuits (*Titres des Seigneuries*, 53). When Jean Talon arrived in Canada as intendant in 1665, he took part of this seigniory as a site for his three villages of Bourg-Royal, Bourg-la-Reine, and Bourg-Talon. The Jesuits protested vigorously; but Talon pointed out that under the provisions of a royal edict of 1663 (*Édits et Ordonnances*, I. 33) he had authority for his action, since a large part of the original fief still remained uncleared. In 1671 the villages were consolidated into the barony of Des Islets, and in 1675 the barony became the countship of Orsainville (*Titres des Seigneuries*, 348). Talon's nephew, who inherited the countship, sold the estate to Mgr. de Saint-Vallier, second bishop of Quebec, who in turn gave it as part of an endowment to the general hospital which he had founded at Quebec. In 1698 the hospital authorities, by an arrangement with the Jesuits, restored the villages of Bourg-Royal and Bourg-la-Reine to the seigniory of Notre Dame des Anges (*cf.* Chapais, *Jean Talon*, 494–500). With the other estates of the Jesuits, this fief eventually passed into the possession of the crown. There are some interesting details about it in L'Abbé Charles Trudell's *La paroisse de Charlesbourg* (Quebec, 1887).

couleurs le dessignent sur le plan. Supposé que le copiste ait esté exacte à suivre les originaux, l'estendue de toute cette seigneurie comprend de très belles terres qui s'élèvent en pente douce du costé du nordoüest, jusques aux montagnes, produisant abondamment toutes sortes de grains et [de] légumes et [de] fruits. Il s'y trouve aussy de carrières des pierre de taille et de pierre à chaux. Il y a environ 21 ans que l'on découvrit une mine de charbon de terre sur le domaine que les Pères Jésuites ont en ce lieu-là, qu'ils n'ont pas jugée à propos de mettre au jour. C'est sur la grève de cette seigneurie que les Anglois firent leur descente en 1710,[1] et trois jours après furent contraints de se rembarquer, en abandonnant leurs canons et sans oser tenter le passage de la petite Rivière. Il y a très peu de bois ayant esté détruit pour les usages ordinaires.

La Seigneurie de Beauport[2] appartient au Sieur Duchesnay de S^t^ Denis, par la cession que luy en a faite le marquis de Beauport.[3] La paroisse est desservie par un des prestres du Séminaire de Québek. Les terres sont très belles, qui s'élèvent en pente douce au nordoüest, jusques au montagnes. Elles produisent toutes sortes de grains et [de] légumes. Il n'y a presque plus de bois sur les devantures.

La Seigneurie de Beaupré[4] est séparée de Beauport par le Saut de Montmorency qui fait une chute d'environ quarante

[1] The date should be 1690.

[2] The seigniory of Beauport was the first grant made by the Company of One Hundred Associates by virtue of the right to grant lands contained in its charter. It was given to Robert Giffard on January 15, 1634 (*Titres des Seigneuries*, 386). Giffard conveyed it by donation *inter vivos* to his son-in-law, Nicholas Juchereau, Sieur de St. Denis, father of Ignace Juchereau du Chesnay de St. Denis, who is here mentioned. See *Actes de Foi et Hommage*, II. 420; also P. G. Roy, *La famille Juchereau Duchesnay* (Lévis, 1903).

[3] Catalogne is here in error. The title of "marquis" was never given to Robert Giffard, seignior of Beauport.

[4] The seigniory of Beaupré was made up of several prior grants purchased from their original owners by Bishop Laval for the Seminary at Quebec. The consolidation had been accomplished before 1668. See *Actes de Foi et Hommage*, I. 265.

ou 60 pieds. Elle appartient à Messieurs du Séminaire de Québek. Les terres sont très belles. Elle comprend trois paroisses, sçavoir, l'Ange gardien, Château Riché, et S^te^ Anne, toutes trois desservies par des prestres du Séminaire. Toute la coste est bordée d'un terrain fort élevé, au bas de laquelle se trouve quelque espace de terre à niveau des marais, qui, par le moyen de fossés, ont esté asséchées et rendues très fertiles en toutes sortes de grains et [de] légumes. Les terres élevées ne sont pas si bonnes quoique les égouts des montagnes, qui en sont fort près, les humectent et les rendent propres à produire toutes sortes de grains [de] fruits et [de] légumes, mais non pas si abondamment que sur les terres basses ; mais le grain en est meilleur. Les habitans de cette coste passent, et le son[t] effectivement, pour les plus laborieux et le plus riches du Canada. Depuis très longtems ils fabriquent des toiles et droguets. Les montagnes, quoique escarpées, leurs fournissent du bois tant de charpente que de chauffage. Je comprend les trois paroisses sous un mesme titre, m'ayant paru égales en valeur. Les filles de la Congrégation ont un établissement au Château Riché.

Le Cap Tourmente,[1] qui est une suite de la Seigneurie de Beaupré, est le principal manoir du Séminaire de Québek. Il est divisé en deux, sçavoir, la grosse et la petite ferme. Lors des vacances les escoliers y vont prendre leur récréation. Il y a de beaux bâtimens, et tout ce qui est nécessaire pour une ménagerie, où ils ont toutes sortes d'animaux domestiques. Les terres en culture qui approchent de près les montagnes et qui en sont bordées du costé du nordoüest, y sont plus basses et unies qui, par le moyen de fossés ont esté asséchées et rendues très fertiles en toutes sortes de grains et [de] légumes, mesme des fruits. Les montagnes contiennent des bois de toutes espèces.

[1] Cap Tourmente was first granted in 1624 to Guillaume de Caën, a Huguenot trader (see Moreau de St. Méry, *Lois et constitutions françaises de l'Amérique*, I. 48). In 1628 Caën's title was revoked by the Company of One Hundred Associates.

La Seigneurie de la Baye St. Paul appartient au dit Séminaire où ils ont une espèce de domaine plus estimé par les pacages que pour la production des grains, quoique les terres y soyent très bonnes, mais les montagnes les renferment dans un petit espace. Les habitans en sont aussy serrés de fort près. Les plans copiés en 1709, en dessignoient les élévations. Je ne sçay [*i.e.* sais] si ceux de 1710 ont esté copiés de mesme. C'est devant ce domaine que se trouve le gouffre de l'Isle aux Coudres,[1] qui dans le fort de la marée perdante [*i.e.* montante] se fait un torrent qui frappe sur une pointe de rochers et forme un ressac en [se] croissant, qui fait le sujet de ce gouffre, d'où les vaisseaux ne sçauroient sortir et sont fort exposés jusques à ce que la marée soit revenue à son flot. Les montagnes entrecoupées de petits valons contiennent de toutes sortes de bois particulièrement de gros pins, et c'est dans ce seul endroit où l'on fait le goudron, quoiqu'il y en ait plusieurs autres où l'on pourroit en faire. Cette seigneurie fait la définition des plans du costé du nordoüest.

L'Isle d'Orléans[2] ou de St. Laurent appartient à M. Berthelot. Elle est divisée en cinq paroisses, trois du costé du sud, et deux du costé du nordoüest, toutes les cinq desservies par des prestres du Séminaire de Québek. La pluspart des habitans fabriquent des toiles et [des] droguets, mesme au-delà de leur usage, de sorte qu'ils en vendent en quantité.

[1] Isle aux Coudres was granted to the Seminary on October 29, 1687 (*Titres des Seigneuries*, 322). See also Alexis Mailloux, *Histoire de l'Île-aux-Coudres* (Montreal, 1879).

[2] The Island of Orleans was originally granted, June 15, 1636, to M. Jacques Castillon, "bourgeois of the city of Paris" (*Titres des Seigneuries*, 350). As Castillon did nothing, however, in the way of developing his property, it reverted to the crown by the provisions of the edict of 1663 (*Édits et Ordonnances*, I. 33). On March 28, 1674, it was granted to Bishop Laval, who in the year following exchanged it with François Berthelot for the latter's seigniory of Isle Jésus at Montreal (*Actes de Foi et Hommage*, II. 461). In 1676 it was erected into the countship of St. Laurent. An outline of the history of the island may be found in N. H. Bowen's *Historical Sketch of the Isle of Orleans* (Quebec, 1860), in L. P. Turcotte's *Histoire de l'Île d'Orléans* (Quebec, 1867), or in L. E. Bois's *L'Île d'Orléans* (Quebec, 1895).

La Paroisse S^t. Pierre est la moins nombreuse en paroissiens. Les terres y sont fort élevées eu esgard au fleuve, cependant fort unies et mouillées qui par le moyen de fossés sont asséchées et rendues très fertiles en toutes sortes de grains et [de] légumes. Ce qui sépare les habitans du sudest d'avec ceux du costé du nordoüest est une lisière de bois qui va du haut au bas, que les habitans conservent pour leur usage et chauffage.

La Paroisse de la S^te. Famille est plus nombreuse en paroissiens et qui passent pour les plus riches de l'Isle. Les filles de la Congrégation y ont un établissement. Les terres y sont très belles qui montent en pente douce jusques au milieu de l'Isle, et ensuite descendant de l'autre costé. Il y a des contrées où il se trouve des roches mouvantes à la charue. Néanmoins les terres y sont très fertiles en toutes sortes de grains et [de] légumes.

La Paroisse de S^t. François [est] située au bas de l'Isle sur l'arrière-fief qui appartient au Sieur Perrot, sous le nom d'Argentenay, par l'acquisition qu'il en a faite des Dames de l'Hostel Dieu. Les terres sont entrecoupées par de petits costeaux et valons, particulièrement du costé du nordoüest, où se trouve[nt] des roches mouvantes à la charue, qui cependant produisent abondamment toutes sortes de grains et de légumes.

La Paroisse de St. Jean est au sudest de la S^te. Famille. Les terres n'y sont unies que par contrées, estant entrecoupées de colines et valons, et ne sont pas si bonnes que du costé du nordoüest pour produire abondamment des grains, mais il [*i.e.* elles] y sont meilleures en qualité.

La Paroisse de S^t. Laurent est celle qui a le plus d'étendue, mais la moindre en paroissiens. Les terres y sont plus hautes qu'en tout le reste de l'Isle, entrecoupées des costeaux et ravines fort profondes, difficiles à mettre en culture. Celles qui sont cultivées produisent abondamment toutes sortes de grains et de légumes. Les bois de toutes espèces y sont plus gros qu'en tout le reste de l'Isle.

La Seigneurie de Lotbinière,[1] qui reprend le haut du gouvernement de Québek, du costé du sudest, appartient aux héritiers de ce nom. La paroisse est desservie par un père Récolet. Les terres n'y sont que médiocrement bonnes dans la devanture; aussy n'est elle guère nombreuse en habitans cédanters [*i.e.* sédentaires]. La plus grande valeur est la pesche à l'anguille et aux bois de chauffage et autre bois qu'ils transportent à la ville. Les terres en culture sont fort mouillées et entrecoupées de colines et ravines. La partie d'en bas est extraordinairement haute et fort escarpé. Le bled n'y vient que par petite contrée. Le terrain ne paroist pas propre pour les arbres fruitiers, il y a de toute sorte de bois mélangés.

La Seigneurie du platon S^te^ Croix[2] appartient aux Dames Ursulines de Québek. La pluspart des terres y sont fort hautes, médiocrement bonnes. Les terres en culture y produisent de bon grain, mais non pas en abondance comme ailleurs. Les légumes y viennent mieux particulièrement le lin et [le] chanvre. La pesche à l'anguille y est plus abondante qu'à tout au[tre] endroit. Il y a [de] toute sorte de bois mélangés qu'ils commercent à la ville.

[1] The seigniory of Lotbinière was originally granted in several parcels. On November 3, 1672, a portion of it was given to Nicholas Marsolet (*Titres des Seigneuries*, 302), and on the same day another portion was given to René-Louis Théandre Chartier de Lotbinière (*Ibid.*, 315). M. de Lotbinière purchased Marsolet's grant from his widow (*Actes de Foi et Hommage*, II. 318), and obtained augmentations from the crown in 1685 and 1693 (*Titres des Seigneuries*, 364, 408). The fief as finally consolidated was a very extensive one, being three-and-a-half leagues in frontage by six in depth. It remained in the hands of the Chartiers de Lotbinière down to the date of the abolition of the seigniorial system. For the history of the family of Lotbinière, see Daniel's *Histoire des grandes familles*, &c., 297–316.

[2] The *Actes de Foi et Hommage*, IV. 336, record that the fief of Le Platon de la Sainte-Croix was granted by the Company of One Hundred Associates on January 16, 1637, to the Ursulines of Quebec, and that this grant was confirmed by Governor de Lauzon on March 6, 1662. Neither the title nor the confirmation seems to be printed, but both are mentioned in *Return made by the Inspector-general of the Queen's Domain to the Seigniorial Commissioners in 1842.*

La Seigneurie de Choret[1] appartient au seigneur de ce nom, laboureur. Les terres y sont fort hautes eu esgard au fleuve, mais assez unies. Il n'y a que très peu de terres en culture qui produisent de très bon grain et légumes, mais peu propres pour les arbres fruitiers qui ne viennent point sur les terres fortes et argileuses. La pesche à l'anguille s'y fait, mais non pas abondamment. Il y a des bois de toutes espèces qu'ils commercent à Québek.

La Seigneurie de Maranda[2] appartient aux héritiers de ce nom, laboureurs. Les terres et les bois y sont de mesme qualité qu'à celle de Choret et ont le mesme commerce.

La Seigneurie de Villieu[3] relève de la paroisse S^t^ Nicolas. Elle appartient à M. Le Gardeur, capitaine dans les troupes. Les terres y sont fort élevées, néanmoins très unies, où il faut faire des fossés pour les assécher. Par ce moyen elles produisent toutes sortes de grains et de légumes et pacages pour les bestiaux. La pesche à l'anguille et au saumon s'y fait. Elle contient de toutes sortes de bois particulièrement de chauffage qu'ils vendent à Québek.

La Seigneurie de Lauzon[4] appartient à M. Duplessis, commis de M. le Trésorier général de la Marine. Elle est divisée en deux paroisses que le Saut de la Chaudière sépare. Elles sont desservies par des prestres du Séminaire de Québek. La paroisse St. Nicolas est celle d'en haut qui n'est pas si

[1] Charest. The title-deed is not printed, but the seigniory was evidently held by Étienne Charest, son-in-law of François Bissot, Sieur de la Rivière.

[2] Maranda was a very small fief of about thirty arpents in frontage by one hundred in depth. It was granted, November 3, 1672, to Duquet and son, two habitants (*Titres des Seigneuries*, 289–290).

[3] Better known as the fief of Tilly, or St. Antoine. It was given, October 29, 1672, to the Sieur Le Gardeur de Villiers (*Titres des Seigneuries*, 128).

[4] The seigniory of Lauzon is mentioned in *Actes de Foi et Hommage*, I. 606, as having been granted to Jean de Lauzon, "royal counsellor in the Council of State, and seneschal of New France." The title is not, however, printed in *Titres des Seigneuries*. Lauzon's widow sold the fief to Thomas Bertrand, who in turn disposed of it to Reynard Duplessis (*Actes de Foi et Hommage*, II. 119). The whole history of this seigniory is elaborately given in J. E. Roy's *History of the Seigniory of Lauzon* (5 vols., Montreal, 1897–1904).

nombreuse en habitans que celle d'en bas, parce que le long du fleuve ce ne sont que rochers très hauts et impracticables; et beaucoup de terres en arrière-fief sous le peu de terre qui est en culture sont assez fertiles en toutes sortes de grains et de légumes. Dans les profondeurs les terres y paroissent assez unies et de beaux bois de toutes espèces. La pesche à l'anguille et à toutes sortes de poissons s'y fait. La paroisse St. Joseph est la deuxième de cette seigneurie. Les terres y sont fort hautes, et entrecoupées de costeaux, ravines et chaines de rochers. Les terres qui y sont en culture par l'application et [le] soin des habitans produisent des grains légumes et pacages. Il s'y fait quantité de chaux qui se transporte à la ville, la proximité de laquelle fait que les habitans y sont fort aisés. La pesche à l'anguille et aux saumons y [est] très abondante. Dans les profondeurs de la seigneurie il y a de toutes sortes de beaux bois et de bonnes terres, où le seigneur fait de grosses dépenses à faire des moulins et [des] chemins pour s'en procurer l'établissement. Les arbres fruitiers y viennent fort bien par contrées.

La Seigneurie de Montapenne[1] appartient aux héritiers Bissot, marchands. Elle dépend de la paroisse de Beaumont. Les terres y sont fort hautes sur la devanture entrecoupées de colines et de ravines. Celles qui sont en culture y sont assez bonnes, et produisent de bons grains et légumes. On en tire quantité de bois de chauffage pour amener à Québek.

La Seigneurie de Beaumont[2] appartient au seigneur de ce nom. La paroisse est desservie par un des prestres du

[1] Mont-à-Peine, given on September 24, 1683, to Charles Denys, Sieur de Vitré (*Titres des Seigneuries*, 140). The "Bissot heirs" to whom Catalogne refers were probably Jean-Baptiste and François Bissot, sons of François Bissot, Sieur de la Rivière, who were at this time proprietors of the adjoining seigniory of Vincennes; but the *Actes* give no light on the mutations in ownership of this fief between 1683 and 1755.

[2] Granted November 3, 1672, to Charles Couillard des Islets et de Beaumont (*Titres des Seigneuries*, 298). A considerable augmentation of the seigniory was made in the year following Catalogne's report (*Ibid.*, 64).

Séminaire de Québek. Les terres y sont très belles et unies, un peu hautes sur le bord du fleuve, produisant de toutes sortes de grains et [de] légumes. Il y a de très beau bois de chauffage qu'ils commercent à Québek.

La Seigneurie de la Durantaye[1] fait paroisse avec celle de Beaumont. Elle appartient au seigneur de ce nom, conseiller au Conseil Supérieur. Les terres y sont entrecoupées de costeaux et [de] ravines, la pluspart dans les devantures fort maigres et argileuses. Celles pourtant qui sont en culture produisent passablement des grains et légumes, [et] beaucoup de pacages. Il y a des contrées où les arbres fruitiers viennent très bien, il y a de toutes sortes de bois que les habitans commercent à Québek.

La Seigneurie de Bellechasse[2] fait paroisse avec celle de la Durantaye et Beaumont. Elle appartient au Sieur de Rigauville, enseigne dans les troupes, comme ayant espousé la veuve du Sieur Villemur de Berthier. Les terres y sont très belles et unies. Il y a quelques contrées de roches mouvantes à la charrue. Celles qui sont en culture à la faveur des fossés sont très fertiles en toutes sortes de grains et [de] légumes. Les bois y sont mélangés de toutes espèces. Il y a des contrées où les arbres fruitiers viendroient bien sy on y en plantoit.

La Seigneurie de la Pointe à la Caille et Rivière du Sud[3]

[1] Granted, October 29, 1672, to Olivier Morel de la Durantaye, captain in the Carignan regiment (*Titres des Seigneuries*, 151). It was held in 1712 by his eldest son, Louis-Joseph Morel de la Durantaye, member of the Superior Council. See Sulte on "Morel de la Durantaye," in Royal Society of Canada, *Proceedings*, 1895, *Mémoires*, sec. i. 3–23.

[2] Commonly known as Berthier-en-Bas (*cf.* above, p. 106). It was granted, October 29, 1672, to Alexandre Berthier of the Carignan-Salières (*Titres des Seigneuries*, 109), and from him passed to his son, Alexandre Berthier the younger (*cf.* above, p. 106, note 3), whose second wife, surviving him, married Nicholas des Bergères de Rigauville. The fief eventually passed into the possession of the Hôtel Dieu at Quebec, through a bequest of Charles des Bergères de Rigauville, vicar-general (*Actes de Foi et Hommage*, IV. 351).

[3] Louis Couillard de l'Espinay and Jean-Baptiste Couillard de l'Espinay

appartient aux Sieurs Couillard et de l'Espinay, procureurs du Roy à Québek. La paroisse est desservie par un prestre du Séminaire de Québek. Les terres y sont très belles et unies, mais très basses, qui par le moyen de fossés produisent abondamment toutes sortes de grains, [de] légumes et pacages. Les bois de toute espèce y sont très beaux. Les pays bas sont sapinières. Les arbres fruitiers y viennent comme à Québek.

La Seigneurie de Bernier[1] appartient au seigneur de ce nom, navigateur. On n'y a point encore défriché les terres pour les mettre en culture, quoiqu'elles y paroissent très propres pour cela, y estant fort unies et bois de sapinage.

La Seigneurie de Gagnier,[2] laboureur, appartient aux héritiers de ce nom, dépendant de la paroisse de Vincelot. Les terres y sont unies et fertiles en toutes sortes de grains et [de] légumes et pacages, mesme propres pour les arbres fruitiers. Les bois naturels y sont de toutes espèces.

La Seigneurie de Vincelot[3] appartient au seigneur de ce nom, marchand. La paroisse est desservie par un des prestres du Séminaire de Québek et quelques fois par un père Récolet. Les terres en général y sont très belles, produisant abondamment toutes sortes de grains et [de] légumes et pacages. Les arbres fruitiers y viennent très bien. Les bois naturels

were at this time joint owners of these two fiefs, which are better known as L'Épinay and St. Thomas. The father of the two owners above mentioned had obtained the fiefs partly by purchase (*Actes de Foi et Hommage*, II. 371), and partly by grant from the crown in 1701 (*Titres des Seigneuries*, 449).

[1] Also called Fournier and St. Joseph. It was given on November 3, 1672, to the Sieur Fournier (*Titres des Seigneuries*, 67), and was subsequently purchased by Jacques Bernier of Quebec (*Actes de Foi et Hommage*, II. 88).

[2] The name should be Gagné. This tract of ten arpents in frontage by one league in depth was granted, September 3, 1675, to Louis Gagné *dit* Bellevance (*Titres des Seigneuries*, 14).

[3] The seigniory of Vincelotte was granted November 3, 1672, not, as Tanguay (*Dictionnaire Généalogique*, I. 6) states, to Charles Amyot, merchant of Quebec, but to his widow, Geneviève de Chavigny (*Titres des Seigneuries*, 34). In 1712 it was held by her son, Charles-Joseph Amyot (*Actes de Foi et Hommage*, II. 11).

y sont mélangés de toutes espèces. Les habitans y sont fort aisés.

La Seigneurie de Bélanger[1] appartient au seigneur de ce nom, laboureur, dépendant de la paroisse de Vincelot. Les terres y paroissent assez unies, mélangées par contrées de pierres mouvantes à la charue, produisant médiocrement toutes sortes de grains, [de] légumes et pacages, et où les arbres fruitiers produisent abondamment des fruits. Les bois naturels y sont mélangés de toutes espèces.

La Seigneurie Dutarte[2] appartient à la veuve de ce nom, dépendante de la paroisse de Vincelot. Les terres y sont de mesme qualité qu'à la Seigneurie de Bélanger, qui se termine à la Rivière des Trois Saumons.

Depuis la rivière des Trois Saumons jusques à la Pointe de la Grande Ance, il n'y a que deux habitans establis qui ont très peu de terres en culture. Toute cette partie est entrecoupée de rochers, colines et valons peu habitables, et appartient aux héritiers de la Chesnaye et de M^r. D'Auteuil.[3] Les bois naturels y sont mélangés de toutes espèces, mais plus de sapinage que d'autres.

La Seigneurie de la Grande Ance[4] appartient à la veuve de S^t. Denis, faisant paroisse avec celle de la Rivière Ouelle. Les terres sur le front du fleuve y sont unies et fertiles en toutes sortes de grains et [de] légumes et pacages, mais sujettes à la brune et à la gelée. Les profondeurs [se] lèvent en costeaux et montagnes et entrecoupées de valons garnis de

[1] This is the fief of Bonsecours, first granted to Jean-François Bellanger (or Bélanger) on July 1, 1677. The title is not printed. The owner at this time was his son Charles. See *Actes de Foi et Hommage*, II. 115.

[2] Isle St. Jean, granted May 17, 1677, to Geneviève Couillard, daughter of Louis Couillard, who became the wife of Simon-Pierre Denys, Sieur du Tartre. See *Titres des Seigneuries*, 374; and *Actes de Foi et Hommage*, II. 377.

[3] Aubert de la Chesnaye and Ruette d'Auteuil.

[4] Given on April 1, 1656, to Nicholas Juchereau de St. Denis (*Titres des Seigneuries*, 341). His widow, who was a daughter of Robert Giffard, seignior of Beauport, survived him until 1714 (Tanguay, *Dictionnaire Généalogique*, I. 328).

toutes sortes de bois, plus gommeux que d'autres. Cette seigneurie fait la définition des plans n'ayant pas eu le tems de lever ceux de la Rivière Ouelle, Camouraska et la Rivière du Loup, où se termine[nt] les establissemens des habitans.

L'Isle aux Oyes[1] appartient au Sieur Dupuy, lieutenant particulier à la prévosté de Québek et à la veuve du Sieur de Grandville, vivant capitaine dans les troupes. La plus grande partie de cette Isle consiste en prairies où se nourrit grand nombre de bestiaux. Les terres qui y sont en culture produisent abondamment toutes sortes de grains et [de] légumes. La hauteur contient toutes sortes de bois mélangés.

L'Isle aux Grues[2] appartient à la dite veuve de Grandville avec les isles adjacentes. Il n'y a point d'habitans et très peu de terre en culture qui produise toutes sortes de grains et [de] légumes. Les bois naturels y sont fort gros mélangés de toutes espèces. C'est sur ces deux isles et aux environs que la chasse au gibier passager est très abondante le printems et l'automne.

Il reste à lever les plans de la Rivière Ouelle,[3] Camoraska et la Pointe aux Alouettes,[4] où estoient les établisse-

[1] This fief, more commonly known as Isle du Portage, was first granted, October 29, 1672, to Pierre Bécart (or Bécquart) de Granville, captain in the Carignan regiment (*Titres des Seigneuries*, 273). The "Sieur Dupuy" here mentioned as part-owner in 1712 is probably Paul Dupuis, also a former officer in the Carignans; but how he acquired his interest in the seigniory the *Actes de Foi et Hommage* do not record. The widow of Granville is named as sole owner in 1725 (*Ibid.*, II. 380).

[2] Isle aux Grues au Canot, with adjacent smaller islands, was first granted to the Sieur de Montmagny in 1646 (*Titres des Seigneuries*, 370). The original grantee sold his interest to Louis Couillard de l'Espinay, from whom it was purchased by the Sieur de Granville (*Actes de Foi et Hommage*, II. 363).

[3] Rivière Ouelle was first granted, October 29, 1672, to Jean-François Deschamps, Sieur de la Bouteillerie (*Titres des Seigneuries*, 261). Subsequently the fief passed into the hands of the Casgrains, and the seigniorial manor-house was for many years the hospitable and delightful home of the late Abbé Henri-Raymond Casgrain, erudite historian of French Canada. An interesting description of life in this seigniory during the old régime is given in his *Une paroisse canadienne au XVII^e siècle* (Quebec, 1880).

[4] Kamouraska was first granted, July 15, 1674, to Olivier Morel de la

mens de la pesche aux marsouins.[1] Les terres de la Rivière Ouelle et de Camoraska sont très belles où les habitans sont assez aisés. Ils le seroient encore davantage s'ils estoient à porté du commerce de leurs denrées. Il y a dans le bois de la première une fontaine très abondante d'eau salée, où le sel se pourroit faire comme il se fait en plusieurs provinces de l'Europe.

Les terres qui sont en haut du gouvernement de Montréal sur la route du Fort Frontenac sont des plus belles du pays, où la pesche et la chasse ne manquent jamais ; mais les rapides, qui y sont très mauvais, forment une difficulté à les establir, outre que les ouvriers sont trop rares dans ce pays.

OBSERVATIONS SUR L'ESTABLISSEMENT

Que par rapport à la grand estendue que l'on a donnée à l'establissement il n'y a pas le quart des ouvriers qu'il faudroit pour bien estendre et cultiver les terres.

Que les laboureurs ne se donnent pas assez de soin pour cultiver les terres, estant certain que la semence d'un minot de blé semé sur de la terre cultivée comme en France produira plus que deux autres comme on sème en Canada.

Que comme les saisons sont trop courtes et souvent très mauvaises il seroit à souhaiter que l'Église permette les travaux indispensables que les festes d'esté obligent de chaumer, estant très vray que depuis le mois de may que les semences commencent jusques à la fin de septembre il n'y a pas quatre-vingt-dix journées du travail par rapport aux festes et aux mauvais tems. C'est pourtant dans cet espace que roule la solidité de l'establissement.

Durantaye, captain in the Carignan-Salières (*Titres des Seigneuries*, 29). The history of its various mutations in ownership may be found in *Actes de Foi et Hommage*, II. 62, III. 307, IV. 364.

[1] Even in the earlier part of the nineteenth century the porpoise fisheries of Rivière Ouelle were still important. See Bouchette, *Topographical Description*, 528.

Il faudroit assujétir les habitans négligens à travailler à la culture des terres, en les privant des voyages qui les dispensent de travailler, et cela parce qu'un voyage de deux ou trois mois leur produit 30 ou 40 escus[1] en perdant la saison du travail à la terre, qui les fait demeurer en friche.

Les obliger à semer quantité de chanvre et lin[2] qui vient en ce pays plus beau qu'en Europe. Ils s'en relaschent parce que, disent-ils, il y a trop de peine et de soins à le mettre en œuvre. Il est vray qu'il y a peu de gens qui l'entendent qu'il faut payer bien cher.

Assujétir les habitans à élever et nourrir des bêtes à cornes au lieu du grand nombre de chevaux[3] qui ruinent les pacages et qui entrainent les habitans à de grosses dépenses, tant pour leurs esquipages qui sont fort chers que par la grande quantité de fourrage et de grains qu'il faut pendant sept ou huit mois de l'année, estant très vray que l'entretien d'un cheval coûte autant qu'à deux bœufs.

Obliger les seigneurs pour faciliter l'établissement de leurs seigneuries de donner suffisamment des terres pour communes à un prix modique et à construire des moulins et les commodités publiques.[4] Plusieurs consomment le tiers de leur temps à aller faire faire leurs farines à 15 et 20 lieues; et que les seigneurs de qui les seigneuries ne sont pas establies concèdent

[1] The *écu* of Louis XIV. amounted to about five francs.

[2] Although the cultivation of hemp never assumed important dimensions in New France (*cf.* above, p. 84), the cultivation of flax was carried on extensively. The census of 1720 gave the estimated annual production as over 67,000 pounds. See Johnson, *Censuses of Canada*, 1665–1871, p. 53.

[3] Complaints were made at different times that too many horses were raised in the colony, but these complaints do not seem altogether reasonable in the light of the census records. In 1706, for example, the population of the colony was given as 16,417, and the number of horses as 1872.

[4] The matter of compelling the seigniors to build their mills was always a troublesome one. Several years before the date of Catalogne's report the king had issued an important arrêt providing that seigniors who did not build their banal mills forthwith should lose their right to do so at any future time. This arrêt had not, however, been properly promulgated. See above, pp. 61–62.

des terres sans que les tenanciers soyent obligés de payer des rentes qu'après six années que les terres seroient en valeur.[1]

Ordonner au grand voyer de donner son application à faire establir les chemins et ponts nécessaires au public, qui est une nécessité fort essentielle.[2]

Obliger les habitans, ou ceux qui sont en estat, de faire des greniers pour que chacun fût en estat de conserver du grain pour deux années. Cela fait une fois [que] l'abondance se trouvera toujours au Canada, au lieu que la pluspart, faute de cette commodité, en manquent très souvent, estant obligés de le vendre à vil prix.

Châtier sévèrement tous ceux qui seront convaincus de fraude, mauvaise foy, et d'imposture, qui est un mal qui commence à estre bien enraciné et qui indubitablement le privera de tout commerce. Les marchands des Isles et de Plaisance s'en estant déjà plaints.

Que comme il n'y a pas de notaires dans tous les lieux que les marchés et conventions faites en présence de deux témoins valideront pendant un temps fixé.

Il seroit à souhaiter que Sa Majesté voulust establir dans chaque ville des consuls à juger[3] sans frais sur le fait du commerce et des affaires qui n'entrent pas dans la coutume, ces sortes de procédures, aussy bien que les autres, ne prenant aucune fin que lorsque les parties n'ont plus d'argent pour plaider qui est la ruine entière des familles.

Engager un certain nombre de gens du pays à estudier le pilotage, mesme les officiers des troupes particulièrement du fleuve St. Laurent, qui est très dangereux, la pluspart du tems

[1] Others as well as Catalogne had made this suggestion, but it appears never to have commended itself to the authorities.

[2] The *grand voyer* had charge, under the general supervision of the intendant, of the construction of all main roads and bridges in the colony. His duties were set forth in detail in an ordinance of 1706 (*Édits et Ordonnances*, II. 137).

[3] On the functions of the *juges consuls* in France, see P. Viollet, *Histoire du droit civil français* (Paris, 1893).

ne se trouvant pas un seul pilote au Canada, et cependant on commence à donner dans la construction, le capitaine de port et M. Duplessis ayant mis un vaisseau de 3 à 400 tonneaux sur les chantiers.

Congédier de tems en tems des soldats, en leur permettant de se marier après qu'ils auront un establissement.

Il s'est estably une coutume dans ce pays autorisée par les magistrats qui ne me paroist pas naturelle, de laisser les bestiaux à l'abandon qui la pluspart gastent les grains et les prairies n'ayant presque point de terres closes, qui cause des contestes et de la mésintelligence entre les voisins. Pour obvier à cela il faudroit qu'il y eust des gardiens pour chaque nature d'animaux pour les mener dans les communes, car tel qui n'a un pouce de terre envoye ses animaux paître sur les terres de son voisin, en disant que l'abandon est donné. Si Sa Majesté vouloit couper la racine à une pépinière de procès et de mésintelligence entre les seigneurs et habitans, il seroit à souhaiter qu'elle voulust donner une ordonnance tendant à ce que les seigneuries et autres concessions demeureroient dans les limites qu'elles se trouvent à présent sans avoir esgard aux titres portés dans les contracts pour la qualité et pour les rhumbs de vent qui y sont énoncés, estant à remarquer que les anciens seigneurs et habitans se sont establis de bonne foy, que les terres ont esté limitées par des arpenteurs peu intelligens, et aujourdhuy que la chicane est en vogue chacun veut suivre les termes de son contract qui tendent la pluspart à l'impossible. Monsieur Raudot a donné une ordonnance à ce sujet pour l'Isle de Montréal seulement.[1]

Comme la pluspart des rues de Québek et Montréal sont souvent impracticables tant par les rochers que par les bourbiers, s'il plaisoit à Sa Majesté d'ordonner que les deniers qui proviennent des amendes et certaines confiscations seroient employées à les mettre en estat.

[1] With these complaints compare Raudot's despatch to Pontchartrain, November 7, 1707 (above, pp. 70–80).

Que la subordination du vassal à son seigneur n'est point observée. Cette erreur vient [de] qu'il a esté accordé des seigneuries à des roturiers qui n'ont pas su maintenir le droit que la raison leur donne à l'esgard de leurs sujets; mesme les officiers de milice [1] qui leurs sont dépendans n'ont la pluspart aucun esgard pour leur supériorité et veulent dans les occasions passer pour indépendans.

Il seroit à souhaiter que Sa Majesté voulust envoyer en ce pays toutes sortes d'artisans, particulièrement des ouvriers en cordages et filasse, des potiers et un verrier; et ils trouveroient à s'occuper. Si Sa Majesté vouloit faire envoyer en marchandises une partie des appointemens de Messieurs les officiers, cela [leur] adouciroit la dureté qu'eux seuls trouvent dans le pays par la grande cherté des marchandises causée par le mauvais retour de la monnoye de carte, qui fait acheter 3 et 4 cens pour cent.[2]

Le copiste par mégarde a sauté 3 seigneuries qui se trouveront cy-après.

La première est le domaine du Roy aux Trois Rivières.[3]

[1] It was the custom to appoint in each parish, or *côte*, an officer known as the *capitaine de la milice*. These officers were entrusted with the task of enrolling the habitants, promulgating decrees, and, in general, of seeing that the orders of the authorities at Quebec were carried out. They were ordinarily chosen from among the more prominent habitants, and seem to have attached considerable importance to their post.

[2] The card money, first issued by Meulles in 1685, was continued in circulation down to the close of the French dominion. The history of its depreciation is given in Adam Shortt's articles on "Canadian Currency and Exchange under French Rule," in *Journal of the Canadian Bankers' Association*, 1898–1899 (V. 271, 385; VI. 1, 147, 233). See also James Stevenson on "Card Money in Canada during the French Domination," in Quebec Literary and Historical Society, *Transactions*, 1873–1875, pp. 84–112; and N. E. Dionne on "La monnaie canadienne sous le régime français," in *Revue Canadienne*, XXIX. 30–32, 72–83.

[3] This tract of land had, in 1649, been granted to Michel Le Neuf du Hérisson (*Titres des Seigneuries*, 103). A number of "squatters" settled upon it without titles; and, when Le Neuf's heirs attempted to oust them, they successfully maintained their prescriptive right before the courts. Catalogne's appellation is, however, scarcely accurate; for there was no territory between Pointe du Lac and Cap de la Magdelaine which could properly be called "le domaine du Roy."

Son estendue de front est depuis la Seigneurie de la Pointe du Lac, qui appartient au Sieur de Tonnancour, et le Cap de la Magdelaine. Les terres y sont très belles et unies, fertiles en toute sorte de grains et [de] légumes. Il n'y a que trop peu de bois. La ville est situé sur une hauteur de sable, qui luy donne une vue très agréable. Il y a peu de citoyens. La paroisse est desservie par des Pères Récolets. Le commerce y est très petit.

La deuzième seigneurie, qui a esté sautée, est celle de Jeantilly [1] au mesme gouvernement, sise entre celle de Lingtot et celle du Bequet, appartient au dit Jeantilly, laboureur. Il y a peu d'habitans résidens, la pluspart des concessionnaires estant de Champlain et Batiscan qui y ont pris des terres pour en tirer des bois pour leur chauffage, et d'ailleurs les terres pour produire des grains n'y sont bonnes que par contrées. Il y a de toute sorte de bois mélangés.

La Seigneurie de Lingtot [2] doit estre placée entre celle de Bécancourt et celle de Jeantilly. Elle appartient aux héritiers du feu Sieur Lingetot, vivant major des Trois-Rivières. Les habitans font paroisse avec ceux de Bécancour. Les terres y sont basses mais très belles, produisant toute sorte de grains et [de] légumes. Il y a toute sorte de bois, et c'est dans ce continent que l'on trouve les plus beaux chesnes pour la construction. Les Sieurs Duplessy, Prat et Fournel qui font construire un vaisseau de trois à quatre cent tonneaux y ont pris tout le bois nécessaire.

J'ay dit à l'article de la Seigneurie de Chambly que je joindrai icy le plan, mais les continuelles occupations pour les

[1] The fief of Gentilly was first granted, August 14, 1676, to Michel Pelletier, Sieur de la Prade (*Titres des Seigneuries*, 13). By donation *inter vivos* Pelletier conveyed the fief in 1683 to François Poisson, by whose son, François Poisson de Gentilly, it was held in 1712 (*Actes de Foi et Hommage*, II. 30).

[2] More commonly called Dutord, or Dutort. I have found no copy of the original title-deed, but according to the *Actes* (I. 15) it was granted to Michel Godfroy in 1637.

fortifications m'en ont empêché. J'auray l'honneur de l'envoyer l'année prochaine avec celuy du Lac Champlain.

Quoiqu'il soit dit dans plusieurs endroits que les terres sont médiocrement bonnes, ce n'est que par rapport aux meilleurs, puisque les plus mauvaises, quoy que mal cultivées, produisent ordinairement six, sept et huit pour un, à moins qu'il ne survienne des accidens. Les plus dangereux sont d'estre exchaudés, c'est-à-dire que lors qu'il survient des orages ou des brumes du matin sy le soleil vient à donner dessus avant que la rosée soit desséchée le dommage s'en suit. Il n'y a que le froment qui est sujet à ces accidens. Les plus prudens y remédient en partie en secouant la rosée avec une ligne.

CATALOGNE.

Vu : Vaudreuil.
Vu : Bégon.

No. 40. Despatch of Governor Vaudreuil[1] to His Royal Highness the Duc d'Orléans, Regent of France,[2] asking that Salt-smugglers be sent to Canada to work the Lands, February, 1716.

Correspondance Générale, XXXVI. 110.

MONSEIGNEUR,—

À l'esgard des habitans dont il est indispensable d'augmenter le nombre le Marquis de Vaudreuil a l'honneur de proposer à Votre Altesse Royale un expédient pour en procurer suffisamment sans dépeupler le royaume d'hommes

[1] Philippe de Rigaud, Marquis de Vaudreuil, commissioned governor and lieutenant-general of New France, August 1, 1703, having been promoted from the governorship of Montreal (*Édits et Ordonnances*, III. 58–59). He remained in office for over twenty years.

[2] On the death of Louis XIV. in 1715, the French throne went to his young grandson, during whose minority the Duc d'Orléans assumed general direction of affairs as regent of the kingdom until his death in 1723.

qui y soient utiles, et sans qu'il en coûte rien à Sa Majesté. Il y a tous les ans un nombre considérable de faux sauniers condamnés aux galères qui deviennent inutils à la culture des terres, et qui ne servent point sur les galères, parce que le Roy n'en arme point ou peu, et que quand Sa Majesté en armeroit il y auroit suffisamment de forçats sans ceux-là pour former les chiourmes. La dépense de ces faux sauniers est payée par les fermiers généraux.

Le Marquis de Vaudreuil demande que Votre Altesse Royale veuille bien accorder à la colonie de Canada cent cinquante de ces faux sauniers tous les ans depuis l'âge de quinze ans jusqu'à quarante, pour chacun desquels il demande que les fermiers généraux qui les feront conduire à La Rochelle à leurs dépens, payent cent cinquante livres moyennant quoy ils en seront déchargés pour toujours.

Il n'y a point de faux saunier condamné aux galères qui ne coûte au moins cent livres par an aux fermiers généraux. Il y en a tel qui y demeure dix ans et plus, et qui par conséquent leur coûteroit mille livres. Il n'y en a point qui n'y soit plus de dix-huit mois. Ainsy il n'y a qu'à gagner pour les fermiers généraux à cette proposition.

Si votre Altesse Royale veut bien accorder cette grâce on pourra obliger tous les vaisseaux qui vont en Canada, de passer ces cent cinquante hommes, proportionnant le nombre pour chaque vaisseau au port, dont il sera donné soixante livres pour le passage de chaque homme [et pour] acheter à chacun pour trente livres de linge et hardes sans quoy ils courreroient risque d'estre mangés de vermine dans le vaisseau et d'y causer quelque maladie; et les soixante livres restantes serviroient à les nourrir en Canada, jusques à ce qu'on les eust distribué aux habitans pour les faire travailler de la même manière que les engagés ordinaires qu'on envoye dans les colonies, et cela pour trois ans; passé lequel tems ils seront libres, sans toutes fois pouvoir jamais revenir en France.

Et pour mettre ces gens-là en état de faire quelque chose

lorsqu'ils seront libres, on pourroit remettre ce qui leur resteroit des cent cinquante livres donnés par les fermiers généraux entre les mains du trésorier pour leur estre rendu en sortant de chez leurs maistres et même obliger leurs maistres après les dites trois années, de leur donner cinquante livres.

Les habitans se trouveroient très heureux d'avoir des hommes à ces conditions pour la culture de leurs terres, et cela feroit insensiblement une augmentation considérable dans la colonie d'hommes accoutumés au travail.

[Unsigned.]

No. 41. Extract from the Minutes of the Council of Marine regarding Seigniorial Abuses in Canada, May 5, 1717.

Archives du Ministère des Colonies, Paris, Série G[1], Vol. 462.

Le Conseil croit qu'il faut rendre un arrest suivant que le Sr. Bégon le propose.
L. A. B.
L. M. D.

M. Bégon[1] a marqué l'année dernière que, dans les contrats de concession que les personnes qui ont des seigneuries en Canada donnent à ceux à qui ils concèdent des terres, ils y mettent plusieurs servitudes contraires à la coutume et à l'établissement de la colonie.[2] Telles sont les corvées[3] que les seigneurs exigent outre une rente foncière

[1] Michel Bégon was appointed to the post of intendant of New France on March 31, 1710 (*Édits et Ordonnances*, III. 63–64), but owing to the death of his father did not reach the colony until the autumn of 1712. He remained in office till 1724, when he was promoted to the intendancy of Havre.

[2] The reference is to Bégon's despatch of February, 1716 (*Correspondance Générale*, XXVI. 90 ff.). This despatch is not printed here because the intendant's complaints are very fully summarised in the minutes of the Council.

[3] The corvée, or obligation on the part of censitaires to give their seignior a certain number of days' labour each year as one of the conditions of their

pour la commune qui sert de pacage aux bestiaux.[1] D'autres seigneurs ont repris cette commune, après le défrichement qu'en avaient fait quelques habitans, pour la vendre à d'autres. Ils établissent encore des corvées dont la coutume ne parle point. Ils se réservent la faculté de rentrer dans les terres qu'ils ont concédées toutes les fois qu'elles sont vendues, en remboursant l'acquéreur:[2] ce qui est aussi contraire à la Coutume de Paris, à laquelle ils déclarent qu'ils dérogent en ce point pour suivre celle de Normandie.[3] Il a marqué qu'il croyait à propos d'ordonner que cette clause demeurera sans exécution à l'égard des contrats où elle se trouve, et de défendre de l'insérer dans ceux qui seront faits à l'avenir.

Quelques-uns de ces seigneurs se réservent dans chaque

tenure, was common at this time throughout a considerable part of France. By the provisions of the Custom of Paris, this obligation might be insisted upon by the seignior only when he had stipulated for it in the title-deeds of granted lands, or when he had an admission of its existence as an obligation in the form of an ancient *aveu et dénombrement* (*Coutume de Paris*, Article LXXI.). It does not seem that the obligation was exacted in any general fashion in New France during the earlier seigniorial period, for no mention is made of it by Raudot in his long despatches concerning the illegal exactions of the seigniors (see above, pp. 70–87). On the nature and scope of the corvée obligation in Canada, see also *Édits et Ordonnances*, II. 437, 444–445.

[1] There seems to have been an idea prevalent among the habitants that in return for the corvée labour the seignior was bound to allow his dependents free use of the "commons," or cleared domain, for the pasturage of their stock. This idea, however, had no basis in law.

[2] The *droit de retrait roturier*. See above, p. 73, note 1.

[3] This is but one of several instances in which the seigniors, and often the habitants as well, showed a disposition to follow the provisions of the *Coutume de Normandy* rather than those of the *Coutume de Paris*. It was not so much that the seigniors found the former more to their advantage than the latter, as that a large proportion of the colonial population, both seigniors and habitants, were Normans by birth, and hence were much more familiar with the seigniorial system as administered under the *Coutume de Normandie* than with that existent in the Prévôté of Paris. On the strength of the Norman element in the population of New France, see J. B. A. Ferland, *Cours d'histoire du Canada* (2 vols., Quebec, 1861–1865), I. 511–516; Edmé Rameau de St. Père, *La France aux colonies* (Paris, 1859), chap. vi.; and Benjamin Sulte on "The Origin of the French Canadians," in Royal Society of Canada, *Proceedings*, 1905, *Transactions*, sec. ii. 99 ff. *Cf.* also above, p. 19, note 2.

concession la liberté de prendre, sans payer, le bois nécessaire pour leur maison ou autres ouvrages et pour leur chauffage : d'autres la préférence de bois à vendre. D'autres accordent à leurs habitants la permission de couper des pins dans les terres qu'ils n'ont pas encore concédées, à la charge de leur payer le dixième des planches qu'ils tireront de ces pins : ce qui fait qu'ils ne concèdent point ces terres. Lorsqu'ils les concèdent, ils se réservent tous les pins et tous les bois de chesne sans en rien payer à ces habitans, ce qui rend ces seigneurs les maîtres d'exiger le prix qu'ils veulent mettre aux chesnes : de sorte qu'ils les vendent très cher ; ce qui est préjudiciable aux constructions et empêche le commerce que l'on ferait de ces bois pour les Isles ou pour la France, s'ils étaient à bon marché.[1]

Ces seigneurs retiennent aussi le XI^me^ poisson que leurs habitans peschent sur le front de leurs concessions.[2]

Ils les assujétissent au droit de moulin banal, ce qui ne

[1] Most of the title-deeds of seigniories contained the requirement that the seignior should reserve, for the use of the crown without compensation, all oak and pine timber such as might at any time be found suitable for use in the royal shipyards. This reservation the seigniors were very obviously entitled to insert in the title-deeds of lands granted within the limits of their seigniories. They had, however, no legal right to assume any property in the timber standing upon granted lands, a restriction which the authorities made very clear by an ordinance issued in 1722 (*Édits et Ordonnances*, II. 471). The practice of taking timber, stone, sand, and other materials from granted lands for use in the construction of the seigniorial manor-house, mill, or church was a very common one ; but it rested upon no legal basis, and on more than one occasion the authorities at Quebec ordered seigniors to pay habitants for materials so taken (see, for example, *Ibid.*, III. 166). The practice of taking firewood was also common, and in most cases seems to have been permitted by the habitants without complaint. On one occasion—in the case of the Sulpitians at Montreal—the colonial authorities sanctioned the custom subject to certain prescribed limitations (*Ibid.*, 123).

[2] It is true that the seignior usually stipulated for the *droit de pêche*, or the right to one fish in every eleven caught by the habitants in the waters fronting the seigniory ; but the enforcement of this privilege seems to have been uncommon. The *droit de pêche* was one of the oldest of the seigniorial rights in France. An account of its early history and development may be found in Dufresnoy's *Histoire du droit de pêche dans l'ancien droit français* (Paris, 1896).

convient pas à la colonie où la multiplicité des moulins ne peut être qu'avantageuse.[1]

Sur quoy, le Conseil a décidé le 12 mai 1716, qu'il fallait suivre la Coutume de Paris, et déclarer comme nuls tous les actes faits contre cette coutume, à moins que, lors de l'établissement de la Coutume de Paris en Canada, le Roy n'ait fait une exception pour les concessions précédemment faites suivant d'autres coutumes:[2] c'est ce que le Conseil a ordonné de vérifier, afin qu'il puisse donner sur cela une décision précise.

Il a esté écrit, en conformité de cette décision, à M. Bégon pour faire la vérification ordonnée.

Il marque par sa lettre du 14e octobre 1716[3] qu'il paraît que la première Compagnie de la Nouvelle-France, formée en 1628, a concédé des terres en fief, spécialement l'Isle de Montréal, à condition que les droits et la foy et hommage lui seraient faits et payés suivant la Coutume de Paris: et par l'article 33 de l'édit d'établissement de la nouvelle compagnie formée en 1664, sous le nom Compagnie des Indes Occidentales, le Roy a ordonné que les juges établis en tous les dits lieux seraient tenus de juger suivant les loix et ordonnances du royaume, et les officiers de suivre et se conformer à la Coutume de la Prévôté et Vicomté de Paris, suivant laquelle les habitans pourraient contracter, sans que l'on y puisse introduire aucune autre coutume, pour éviter la diversité.[4]

Il envoye copie de cet article auquel le Roy n'a point

[1] If the complaint of the intendant on this point had any validity, it was only because of the continued failure of the authorities to enforce the royal decrees relating to the erection of seigniorial mills (see above, p. 61). The editor of this volume has endeavoured to show elsewhere (*The Seigniorial System in Canada*, chap. vi.) that the system of banal mills was of advantage to the colony, and that it secured the erection of many mills which otherwise would not have been provided for the use of the habitants at all.

[2] The reference is to those seigniorial grants which had been made under the provisions of the French Vexin prior to the introduction of the *Coutume de Paris* in 1664. See above, p. 75.

[3] This letter may be found in *Correspondance Générale*, Vol. XXXVI.

[4] Printed above, p. 19.

dérogé : et puisque l'intention du Conseil est que les clauses insérées dans les actes de concession contre la disposition de la Coutume de Paris soient déclarées nulles, il est nécessaire que Sa Majesté rende un arrest qui l'ordonne ainsi.

Fait et arresté par le Conseil de Marine le 5^e^ mai 1717.

L. A. DE BOURBON.
LE MARÉCHAL D'ESTRÉES.

Par le Conseil :

LACHAPELLE.

No. 42. Draft of an Arrêt prepared by Messieurs Deshaguais and Daguesseau for annulling all Title-deeds containing Conditions contrary to the Custom of Paris, May, 1717.[1]

Archives du Ministère des Colonies, Paris, Série F^3^, VIII. f. 15.

Arrêt pour annuler, dans les actes et contrats de concession faits en Canada, les clauses contraires à la Coutume de Paris et ordonner qu'elle y sera observée à l'avenir.

Mai 1717.

LE ROI étant informé que la Compagnie de la Nouvelle-France, formée en 1628, a concédé des terres en fief, spécialement l'Île de Montréal, à condition que la foi et hommage lui seraient faits et les droits payés suivant la Coutume de Paris ; que cette Compagnie qui a possédé ce pays jusqu'en 1663, n'y a point introduit d'autre coutume ;[2] que pour en éviter la

[1] Messieurs Deshaguais and Daguesseau had been asked to prepare this arrêt in 1708 (see above, pp. 82–83) ; and there is no apparent reason why the work should have been so long delayed. It is not improbable that the draft was finally made as a result of the new requests made by Bégon in 1716 (see above, p. 153).

[2] On the accuracy of this statement, *cf.* above, p. 75, note 1.

diversité, le feu Roi a défendu par l'article 33 de l'édit d'établissement de la nouvelle Compagnie formée en 1664 sous le nom de Compagnie des Indes Occidentales, d'introduire aucune autre coutume dans les pays accordés à la Compagnie,[1] et ordonné aux officiers des lieu de suivre et se conformer à la Coutume de la Prévôté du Vicomté de Paris, suivant laquelle les habitants des dits pays pourraient contracter; que, nonobstant la disposition de cet édit, plusieurs de ses sujets qui ont des terres en seigneuries dans la Nouvelle-France, imposent dans les contrats de concession des terres qu'ils concèdent dans leurs censives des clauses et servitudes très onéreuses, contraires aux dispositions de la dite Coutume et à l'établissement de la colonie: telles sont les corvées qu'ils stipulent ou exigent, outre une rente foncière, pour la commune qui sert de pacage aux bestiaux; les corvées qu'ils établissent encore à cause des concessions de terres; la faculté qu'ils se réservent de rentrer dans les terres qu'ils ont concédées toutes les fois qu'elles seront vendues, en remboursant à l'acquéreur le prix de la vente; la réserve de pouvoir prendre dans chaque concession, sans rien payer, tout le bois nécessaire pour leurs maisons ou autres ouvrages, ou pour leur chauffage, et d'avoir la préférence des bois, grains, bestiaux ou autres choses que leurs habitants auront à vendre; la réserve de tous les pins et chênes qui se trouveront sur chaque concession, sans en rien payer, ce qui les rend maîtres d'exiger tels prix qu'ils veulent de ces bois, préjudicie aux constructions et empêche le commerce qu'on en pourrait faire pour le royaume et pour les Îles, s'ils étaient à bon marché; la réserve du poisson que leurs habitants pêchent sur le front de leurs concessions, et l'obligation qu'ils leur imposent de porter leurs blés moudre aux moulins à vent qu'ils ont sur leurs seigneuries, quoique ces moulins ne soient pas banaux par la Coutume de Paris, et que dans une colonie la multiplicité des moulins ne puisse qu'être

[1] Printed above, pp. 17–19.

avantageuse, surtout dans les seigneuries qui sont d'une longue étendue et où il n'y a point de moulin à eau. S.M. étant aussi informée que quelques-uns des dits seigneurs accordent la permission à leurs habitants de couper des pins dans les terres qu'ils n'ont pas encore concédées, à la charge de leur payer le 10e des planches, madriers ou bordages qu'ils tirent de ces pins, ce qui préjudicie d'autant à l'établissement de la colonie que pour se conserver ce 10e ils ne concèdent point ces terres ; et étant nécessaire de pourvoir à tous ces abus.[1]

Ouï le rapport et tout considéré, S.M. étant en son conseil, de l'avis de Monseigneur le duc d'Orléans, régent, a ordonné et ordonne que le dit article 33 du dit édit d'établissement de la Compagnie des Indes Occidentales du mois de mai 1664, sera exécuté selon sa forme et teneur ; ce faisant, que les habitants du dit pays de la Nouvelle-France ne pourront contracter que suivant et conformément à la Coutume de Paris ; fait défense d'y en introduire aucune autre ; veut S.M. que toutes les clauses insérées dans les actes et contrats de concession ou autres, contre la disposition de la dite Coutume, soient et demeurent nulles tant pour le passé que pour l'avenir, et en conséquence S.M. a déchargé et décharge les habitants du dit pays envers les dits seigneurs de toutes corvées pour quelque cause que ce soit ; de la réserve du retrait conventionnel et en censive ; de la réserve de prendre sans payer aucun bois de quelque nature qu'il soit, de construction ou de chauffage ; de la préférence pour quoi que ce soit de ce qu'ils auront à vendre ; de la réserve du 11e poisson qu'ils pêcheront ; de l'obligation d'aller moudre aux moulins à vent, et de l'exécution de toutes autres clauses contraires à la disposition de la dite Coutume, sans néanmoins que pour raison de ce que les dits habitants se trouveront avoir donné ou payé jusqu'au jour de la publication du présent arrêt, pour servitudes ou clauses contraires à la dite

[1] Compare the complaints made by Raudot in his despatches of 1707–1708, printed above, pp. 70–87 *passim*.

Coutume, ils puissent exercer aucune répétition contre les dits seigneurs; fait défense S.M. aux seigneurs de donner permission de prendre des bois sur les terres qu'ils n'ont point encore concédées, sous la réserve du 10e des planches, madriers ou bordages qui en seront tirés, ou sous telle réserve ou condition que ce puisse être; enjoint S.M. aux dits seigneurs de concéder les dites terres aux habitants qui leur en demanderont sous la redevance ordinaire, sinon permet aux dits habitants de se pourvoir pardevant le gouverneur et lieutenant-général de Sa Majesté et l'intendant au dit pays, conformément à l'arrêt de son Conseil du 6 juillet 1711.

Et sera le présent arrêt enregistré au greffe du Conseil Supérieur de Québec, lu, publié et affiché partout où besoin sera, à ce que personne n'en ignore, à l'effet de quoi toutes lettres nécessaires seront expédiées. [Unsigned.]

No. 43. Royal Instructions to Messieurs de Vaudreuil and Bégon concerning the Decision of the French Authorities to Grant no more Seigniories in Canada, May 23, 1719.

Correspondance Générale, XL. 243–245.

. . . Sa Majesté a vu le mémoire du Sieur Desjordy Moreau, capitaine des troupes, qui demande une concession de terre à titre de fief et de seigneurie avec haute, moyenne, et basse justice; elle se seroit portée volontiers à lui accorder cette grâce, mais le grand nombre de seigneuries n'ayant que trop préjudicié à l'établissement du Canada, il y a plusieurs années, qu'il fut résolu de n'en plus accorder; Sa Majesté l'a encore expliqué aux Sieurs de Vaudreuil et Bégon, par sa dépêche du 15 juin 1716,[1] et son intention n'est point de rien

[1] This despatch does not seem to have been preserved; but from subsequent royal communications one is led to infer that the French authorities

changer. Elle ne veut à l'avenir accorder de concessions qu'en roture. Cependant, quoiqu'elle leur ait ordonné de ne les donner que de trois arpens de front et de quarante de profondeur, dans les bonnes terres, elle trouvera bon qu'ils les étendent davantage s'ils le jugent à propos.

À l'égard de la concession demandée par le Sieur de la Valterie du Havre nommé La Rivière St. Augustin dans la coste de Labrador, pour y establir une pesche sédentaire, de morue, et de loup marin, avec deux lieux de front de chaque costé, et les droits de pesche, chasse, et traite avec les sauvages, Sa Majesté lui accordera volontiers par un brevet à vie et de la même manière qu'un pareil établissement avoit esté donné au feu Sieur de Courtemanche. Si cela convient au Sieur de la Valterie, les Sieurs de Vaudreuil et Bégon en rendront compte à Sa Majesté.

Elle est bien aise avant de finir l'article des concessions de recommander aux Sieurs de Vaudreuil et Bégon de tenir la main à l'exécution de l'arrest du six juillet 1711,[1] qui réunit au domaine les seigneuries qui ne sont pas habitées et qui obligent les seigneurs qui ont des terres à donner dans l'étendue de leurs seigneuries à les concéder ; il est très important qu'ils ayent une attention vive à suivre cette affaire parce que cela peut beaucoup contribuer à l'augmentation de la colonie. Ils

had come to the conclusion that too many seigniories were being granted by the royal officials in the colony. It is not unlikely that the report of Catalogne (printed above, pp. 94–151) had brought home to the minds of the home authorities some idea of the enormous amount of good land which had been given to individuals who had allowed most of it to remain entirely uncleared. As a result of the royal orders, no seigniories were granted during the decade 1717–1727. A single concession was, however, made to the Ursulines of Three Rivers in this last year; but no more followed until 1729, when the practice of making grants was resumed in response to repeated requests from various religious orders and laymen. During the remaining thirty years of French dominion a considerable number of seigniories were given, and the areas of many old seigniorial grants were increased. A list of them may be found in Dunkin's *Address at the Bar of the Legislative Assembly* (Quebec, 1853), Appendix, Nos. 377–529.

[1] The first of the two Arrêts of Marly, printed above, pp. 91–93.

doivent aussi empêcher que ces seigneurs ne recoivent de l'argent pour les terres qu'ils concéderont en bois debout; n'estant pas juste qu'ils ayent la faculté d'en tenir d'un bien sur lequel ils n'ont fait aucune dépense, et qui ne leur a esté donné que pour le faire habiter.

Comme Sa Majesté n'a point encore esté informé de ce qui a esté fait en conséquence de cet arrest, elle désire que le Sieur Bégon envoye un mémoire contenant les terres convenir (*sic*) d'une réduction et de lui rendre la justice qui lui est due.

J'ai parlé à Monsieur de la Durantaye du droit d'échange qu'il vous a prié de lui faire avoir dans l'étendue de la Seigneurie de la Durantaye; il m'a dit qu'il a eu cette vue à l'occasion de plusieurs de ses habitants, qu'il soupçonne d'avoir supposé des échanges sans en avoir cependant la preuve afin de le frustrer de ses droits de lods et ventes;[1] et parce que s'il avoit ces échanges, ce seroit une augmentation à sa terre d'un droit seigneurial qu'il n'a pas, et qu'il avoit espéré cette grâce de Sa Majesté en considération de ses longs services, mais comme Sa Majesté ne veut plus accorder *de terres en seigneuries, mais seulement en roture, il n'y a pas lieu de croire qu'elle soit* dans le dessein d'augmenter les droits des seigneurs, et encore moins de donner à Monsieur de la Durantaye ce droit, qui fait partie des droits seigneuriaux appartenant à Sa Majesté dont jouit le fermier du domaine. . . . [Unsigned.]

[1] The *lods et ventes* was a fine amounting to one-twelfth of the value of a holding *en roture*, and was payable to the seignior upon the occasion of each mutation in ownership whether by gift, sale, or inheritance other than in lineal succession (*Coutume de Paris*, Article LXXIII.). Ordinarily it could not be demanded by the seignior on the occasion of exchanges of lands held *en roture* within the seigniory,—a limitation of his rights which he usually regarded as unfair. Applications similar to this of the Sieur de la Durantaye were made by several seigniors, but the only case in which the request seems to have been granted was that of the Seminary of St. Sulpice at Montreal; and here the extension of seigniorial rights was given by way of compensation for a retrenchment of the seminary's judicial powers (see *Édits et Ordonnances*, I. 346).

No. 44. Despatch of Messieurs de Vaudreuil and Bégon to the Minister concerning the Reunion of Uncleared Seigniories to the Royal Domain, October 26, 1719.[1]

Correspondance Générale, XL. 7.

MONSEIGNEUR,—

Sur le refus qui a été fait par quelques seigneurs d'accorder des continuations de terrains en bois debout à leurs tenanciers ou des concessions à de nouveaux habitants, le Sieur Bégon a engagé les seigneurs de les concéder en les avertissant que s'ils ne le faisaient pas, elles seroient concédées au nom du Roy. Comme il ne luy en est revenu aucune plainte, il se persuade que les seigneurs ont accordé les continuations ou concessions qui leur etoient demandées. C'est ce qui fait que jusqu'à présent il n'a pas été dans la nécessité de faire aucune réunion.

À l'égard des seigneuries concédées et qui ne sont pas établies, comme il ne s'est présenté personne pour demander à s'y établir, elles n'ont point encore été réunies au domaine. Il leur paroist que cette réunion ne contriburoit en rien à l'établissement de la colonie parce que ces terres resteroient tout à fait abandonnées. Au lieu que la crainte que ceux qui les possèdent ont de les perdre, leur fait chercher tous les moyens practicables pour y commencer quelque établissement ils ont cru que c'était le principal motif de cet arrest dont ils se servent dans toutes les occasions qui se présentent pour engager les propriétaires de ces seigneuries à y attirer des

[1] This despatch affords an interesting example of the way in which the colonial authorities continually procrastinated in regard to the enforcement of the royal decrees.

habitants et ils sont informés qu'il y en a qui ont offert de concéder dans leurs seigneuries des terres sans en tirer aucune redevance pendant cinq ans.

D'ailleurs, attendu la grande étendue de cette colonie, il n'est pas possible que le Sieur Bégon soit informé de toutes les seigneuries qui ne sont point établies. Il ne pourrait le savoir que par la demande qui luy en seroit faite, et personne ne s'est présentée, étant évident que les propriétaires ne viendront pas luy déclarer euxmêmes qu'ils sont dans le cas de la réunion. Pour parvenir à connaître les seigneuries qui ne sont pas établies, il serait nécessaire qu'il fût fait un papier terrier. C'est ce qu'il a proposé au Sieur Cugnet, directeur de la ferme du domaine d'occident, qui luy a dit qu'il feroit connoître à sa Compagnie[1] que ce travail étoit absolument nécessaire pour mettre en règle tous les droits seigneurieux, qui sont dus à Sa Majesté. Dans les mutations des seigneuries on connoîtra par les aveux et dénombrements celles qui seront dans le cas d'estre réunies au domaine de Sa Majesté.[2] . . .

VAUDREUIL. BÉGON.

[1] "La Compagnie d'Occident" had obtained a monopoly of the colonial fur commerce in 1717 (*Édits et Ordonnances*, I. 377–387). This was one of several companies formed in France at this time under the inspiration of the famous promoter, John Law.

[2] The original copy of this despatch bears the following marginal note: "Comme il est dangereux que les colons ne se pressent pas de faire les établissements auxquels ils sont obligés quand ils verront qu'on ne prive pas de leurs concessions ceux qui n'ont point satisfait à leur obligation, le Conseil souhait qu'ils envoyent un état de ceux qui n'y ont pas satisfait et dont néanmoins Messieurs de Vaudreuil et Bégon n'ont pas fait la réunion au domaine et qu'ils marquent en marge de chaque article les raisons qu'ils ont eues pour ne les pas traiter à la rigueur.—L. B., L. M. D."

No. 45. Instructions from the Duc d'Orléans, Regent of France, to Messieurs de Vaudreuil and Bégon concerning the Granting of Seigniories in Canada, January 6, 1720.[1]

Correspondance Générale, XLI. 8 ff.

Le Conseil leur ayant ordonné d'envoyer leur avis sur la concession en seigneurie, demandée par M. Le Comte de Crequy, maistre de camp de cavalerie réformée, des terres depuis la sortie du lac Saint-François jusqu'au pied du long Sault du costé du nord avec les isles et islets adjacents, le tout faisant 5 lieues de front sur autant de profondeur.

Ils croyent qu'il ne convient point d'avoir égard à cette demande, la colonie n'estant desjà que trop étendue par rapport au peu d'habitans et au peu de terres défrichées du nombre de celles concédées qui restent en bois debout. D'ailleurs ces établissemens porteroient un préjudice considérable aux habitans de la ville de Montréal par la facilité que les habitans qui y seraient auroient d'arrester tous les sauvages et de faire la traite de la plus grande partie des pelleteries qui descendroient du pays d'en haut.

Ils seroient aussy si exposés aux insultes des Iroquois à la première guerre qu'on pourroit avoir contre eux qu'ils seroient obligés d'abandonner leurs habitations, et il est du bien de la colonie que, suivant les intentions du Conseil, il soit seulement accordé par le Roy la même étendue de terre que celle que les seigneurs accordent à leurs habitans. Nota M. Le Comte Crequy, ayant demandé en 1718 cette concession en

[1] The first page of these instructions bears the following marginal note: "Décision de S. A. R. Son Altesse Royale ne juge pas à propos qu'on accorde des concessions en seigneurie n'y que l'on étende la colonie si loin. Il faut bien habiter les pays concédés avant que de s'étendre d'avantage.—L. B., L. M. D."

seigneurie sous le nom de Crequy pour y faire un établissement et y envoyer dans la suite quelques uns de ses enfans, le Conseil écrivit à Messieurs de Vaudreuil et Bégon de marquer s'il convenoit de concéder ces terres dans le temps que les profondeurs des seigneuries concédées ne sont pas habituées et si ceux qui s'établieroient dans le terrein demandé n'empecheroient point les sauvages de descendre à Montréal pour y faire leur traite.

Il paroist par leur réponse qu'ils jugent que cette concession, [si on l'accordait] porteroit du préjudice à la colonie.

Fait et arresté le 6 janvier 1720.

L. A. de Bourbon.
Le Maréchal d'Estrées.

Par le Conseil,
Lachapelle.

No. 46. Royal Instructions concerning the Enforcement of the Arrêts of Marly, December 19, 1721.

Correspondance Générale, XLIII. 253.

Sa Majesté a approuvé de la réponse que les Sieurs de Vaudreuil et Bégon ont fait aux ordres qu'elle leur avait donnés l'année dernière au sujet de l'exécution des arrests du 6 juillet 1711 concernant la réunion des terres et des seigneuries de Canada non défrichées. Cependant l'intention de Sa Majesté est qu'ils avertissent ceux qui ont des concessions que s'ils ne travaillent pas à les mettre en valeur on ne pourra se dispenser de les réunir conformément aux susdits arrests du 6 juillet 1711. Ils rendront compte chaque année du succès de cet avertissement.

Ils répondent qu'ils ont fait avertir par le Sieur Collet dans la tournée qu'il a faite l'hiver dernier ceux qui ont des concessions qui ne sont pas établies, de travailler sans retardement à les

mettre en valeur, faute de quoi elles seront réunies au domaine conformément aux susdits arrests. Ces établissemens ne peuvent se faire que peu à peu et autant que les familles se multiplieront. Il n'y a pas aussi lieu de douter que ceux qui ont des concessions ne les établissent autant qu'ils pourront, celles qui ne le sont pas ne leur produisant aucun revenu. . . .

Fait et arresté le 19 décembre 1721.

L. A. DE BOURBON.

Par le Conseil,

DE LACHAPELLE.

No. 47. Despatch of Messieurs de Vaudreuil and Bégon concerning the Nature and Scope of the Aveux et Dénombrements, October 14, 1723.

Correspondance Générale, XLV. 22 ff.

MONSEIGNEUR,—

. . . Le Sieur Bégon a commencé cette année à travailler au papier terrier du domaine de Sa Majesté en cette colonie. Comme il n'y a point de registre des anciennes concessions, qu'il n'y en a eu qu'un petit nombre registrées au Conseil Supérieur, et que la pluspart ont été confirmées par des arrests du Conseil d'État du Roy qui ne contiennent que les noms des concessionaires et la date des concessions sans en expliquer l'étendue, ni la scituation, il a fait copier dans des registres séparés les titres de propriété et les actes de foy et hommage qui lui ont été représentés, et les a fait signer par les parties.

Les aveux et dénombrements [1] qu'il reçoit contiennent :— Sçavoir, les bornes de chaque seigneurie, leur front, leur pro-

[1] The *papier terrier*, or census, of the colony was not prepared at regular intervals, but from time to time as the home authorities might order. Whenever one was requested, the seigniors were ordered by the authorities at

fondeur, et leur scituation au nord et au sud du fleuve St. Laurent ou des Rivières qui s'y deschargent; l'étendue du domaine des propriétaires des seigneuries; le nombre et la qualité de leur bâtiments et moulins, et le nombre d'arpents de terres labourables et de prairies qui sont sur le d[it] domaine; les tenants et aboutissants des habitations de leur tenanciers; le nombre d'arpents de front et de profondeur qu'elles contiennent; les cens et rentes que chaque habitant paye par an pour chaque arpent de front, ou autres droits auxquels ils sont sujets; le nombre d'arpents de terre labourable et de prairies, et le nombre et qualité des bâtiments qui sont sur chaque habitation [*i.e.* concession].

Il reste à faire environ la moitié de ce papier terrier qui sera continué jusqu'à ce qu'il soit entièrement fini.

Lorsqu'il sera fait, on connoistra ce que reste à défricher dans chaque seigneurie, et celles où il n'a encore été fait aucun établissement.

Les Sieurs de Vaudreuil et Bégon continueront d'exciter les propriétaires des seigneuries d'y faire travailler sans retardement, faute de quoy celles qui ne seront point établies seront réunies au domaine conformément aux arrests du six juillet 1711. . . .

Nous avons l'honneur d'être, etc.

VAUDREUIL. BÉGON.

À QUÉBEC, *le* 14 *octobre* 1723.

Quebec to prepare and present their *aveux et dénombrements*, which contained detailed information as here set forth. These *terriers*, several of which are preserved in the archives of the Ministry of Colonies in Paris, form a very fruitful source of data on various matters pertaining to the progress of agriculture and to the cultivation of the seigniories during the old régime. See also above, p. 53, note 1.

No. 48. Despatch of Messieurs de Beauharnois[1] and Hocquart[2] to the Minister with reference to the Reappearance of Seigniorial Abuses, October 10, 1730.

Correspondance Générale, LII. 101 ff.

Dans le séjour que nous avons fait à Montréal, plusieurs particuliers se sont plaints que les seigneurs leur refusaient des concessions dans leurs seigneuries, sous différents prétextes, quoiqu'ils soient obligés par l'arrest du Conseil d'État du mois de juillet 1711,[3] de donner aux habitants celles qu'ils leur demanderont, et en cas de refus, qu'ils puissent se pourvoir pardevant les gouverneur et intendant du pays, auxquels Sa Majesté ordonne de concéder aux d[its] habitants les terres par eux demandées. Nous avons l'honneur de vous rendre compte, Monseigneur, qu'à cette occasion il s'est glissé jusqu'a présent plusieurs abus, tant de la part [des] seigneurs, que de celle des habitants, et qui sont également contraires aux arrests du Conseil d'État de 1711, et à l'établissement de la colonie. Il est arrivé que quelques seigneurs se sont réservé des domaines considérables dans leurs seigneuries, et que sous prétexte de possession de leur domaine ils refusent de concéder les terres qui leur sont demandées dans le d[it]

[1] Charles, Marquis de Beauharnois, commissioned governor and lieutenant-general of New France on January 11, 1726 (*Édits et Ordonnances,* III. 67–68). He should not be confused with François de Beauharnois, who served as intendant during the years 1702–1705.

[2] Gilles Hocquart was appointed commissary-general and acting intendant of the colony on March 8, 1729 (*Édits et Ordonnances,* III. 60–61). Two years later he was named to the post of intendant, which he occupied for eighteen years, displaying high administrative ability combined with unusual interest in the economic development of New France. The home authorities recognised his services by promoting him, in 1746, to the intendancy at Brest.

[3] Above, pp. 91–93.

domaine et se croyent fondés à les pouvoir vendre, et les ont vendues en effet. Nous avons reconnu aussi, que dans les partages des seigneuries entre cohéritiers, ceux d'entre eux qui n'ont pas le droit de justice ni le principal manoir ne se regardant plus comme seigneurs de fief, refusent de concéder aux habitants les terres qui leur sont demandées dans leurs partages, et croyent n'estre point dans le cas de l'arrest du Conseil qui oblige les seigneurs de concéder, et au contraire se croyent en droit de vendre les concessions qu'ils accordent.

Il se trouve un autre inconvénient de la part des habitants, lesquels étant en droit d'exiger des concessions de la part des seigneurs, après en avoir obtenu, les vendent à d'autres dans un petit espace de tems ; ce qui fait une sorte d'agiot et de commerce dans le pays, préjudiciable à la colonie, sans aucune augmentation pour le défrichement et la culture des terres, et entretient la paresse des habitans : à quoi les seigneurs ne s'opposent point, parce qu'ils retirent des lods et ventes de ces concessions ; de cette façon, plusieurs concessionnaires ne tiennent point feu et lieu, et les seigneurs s'embarrassent peu de les faire réunir à leur domaine, et s'ils en demandent la réunion, ceux qui sont en possession ne peuvent répéter les sommes qu'ils ont données en payement.

Nous estimons, Monseigneur, qu'en maintenant les arrêts du Conseil d'État de 1711, il conviendrait d'en faire rendre un qui deffendist aux seigneurs, et à tous autres propriétaires, de vendre aucune terre en bois debout, sous quelque prétexte que ce pust estre, à peine contre les seigneurs et propriétaires des dites terres ainsi vendues de nullité des contrats, de restitution du prix de la vente, et d'etre déchus de tous droits et propriété qu'ils auraient pu prétendre sur les d[ites] terres qui seraient de plein droit réunies au domaine de Roy, et de nouveau concédées, en son nom par nous.

Il est vray en général que les seigneurs concèdent les terres ou paraissent les concéder gratis, mais ceux qui éludent la disposition de l'arrest du Conseil ont besoin de s'en faire payer la

valeur, sans en faire mention dans les contrats, ou d'en faire passer des obligations aux concessionnaires sous prétexte de sommes qui leur sont dues d'ailleurs, ou de quelques petits défrichements de terre sans culture, ou de prairies naturelles qui s'y rencontrent.

Si M. Hocquart avait voulu prononcer sur toutes les contestations concernant les abus que nous avons l'honneur de vous exposer, il aurait troublé plusieurs familles et donné occasion à beaucoup de procès. Il a crû que les concessionnaires n'ayant point profité des dispositions des arrêts du Conseil qui leur sont favorables, c'avait esté leur pure faute d'avoir donné des sommes pour les concessions qu'ils ont eues, et qu'il n'y avait pas lieu à restitution suivant la maxime de droit : *Volenti non fit injuria.*

Nous croyons, Monseigneur, qu'il convient au repos des seigneurs et des habitants de laisser subsister les choses comme elles se sont passées, en attendant l'arrest du Conseil que nous avons l'honneur de vous demander, et ne rien changer à ce qui s'est pratiqué jusqu'à présent. Il nous paraîtrait cependant juste que, dans le cas où il se trouverait des défrichements et des prairies naturelles, les seigneurs pussent en profiter, et que dans les concessions qu'ils donneraient l'étendue des d[its] défrichements et prairies fust marquée, ainsi que les sommes qu'ils recevraient des d[its] concessionnaires.

Les terres en bois debout commencent à estre prisées dans cette colonie, parce qu'actuellement les concessionnaires des devantures manquent de bois, et qu'ils sont dans la nécessité de demander de nouvelles concessions dans le troisième ou le quatrième rang, pour se pourvoir de ce seul besoin. La plupart des habitants ne sont guère instruits des dispositions des arrêts du Conseil qui les regardent sur le fait en question. M. Hocquart en a fait instruire quelques-uns des principaux, sans les faire publier de nouveau. Il se réserve à le faire suivant les ordres que nous recevrons de vous, Monseigneur, l'année prochaine.

Nous sommes avec un très profond respect, Monseigneur, vos très humbles et très obéissants serviteurs,

BEAUHARNOIS.
HOCQUART.

À QUÉBEC, *le* 10 *octobre* 1730.

No. 49. Despatch of Messieurs de Beauharnois and Hocquart to the Minister complaining of the Conduct of various Seigniors, and asking for a Reiteration of the Provisions of the Arrêts of Marly, October 3, 1731.

Correspondance Générale, LIV. 38 ff.

MONSEIGNEUR,—

Sur la lettre que vous nous avez fait l'honneur de nous écrire sur les abus dont nous vous informions au sujet des concessions des terres en Canada, nous voyons que Sa Majesté a suspendu à rendre [*i.e.* a suspendu de rendre, or "has postponed the issue of"] un arrest, jusqu'à ce que vous eussiez notre réponse et notre avis, et vous recommandez fortement à M. Hocquart de faire achever le papier terrier attendu que l'examen de cet ouvrage peut seul faire prendre des arrangements certains sur cela.

M. Hocquart a toujours senti de quelle importance il est que le papier terrier soit fait pour en tirer toutes les lumières nécessaires aux réglement que cela demande, mais il ne dépend pas de luy que cet ouvrage aille plus vite. Ce sont les communautés [1] qui empeschent principalement de l'accélerer par le

[1] Frequent complaints were made that religious orders responded with inexcusable delay to repeated requests for the prompt filing of *aveux et dénombrements* giving data in regard to the seigniories held by them. The Jesuits seem to have been the chief offenders in this respect. As the religious orders and institutions were very extensive landholders, their failure to supply statistics rendered the *terrier* of little service for the time being.

peu d'empressement qu'elles affectent à se mettre en règle. Cependant M. Hocquart est parvenu à faire fournir par le Séminaire de Montréal l'aveu et dénombrement des terres qu'il possède en Canada. Il y a lieu d'espérer que les Jésuites, le Séminaire de Québec et autres communautés ne reculeront plus. Car jusque icy les uns et les autres sembloient se défendre de faire les premiers leurs déclarations.

Nous attendrons nous mesmes la fin du papier terrier pour estre plus en état de donner à la réponse et à l'avis que Sa Majesté souhaite de nous, la justesse et la précision convenables. Nous aurons seulement l'honneur de vous observer pour le présent qu'une partie des abus dont nous parlons dans notre lettre du 10 octobre 1730[1] paraîtroit susceptible de réformation dès aujourd'huy sans qu'il fust absolument besoin de consulter le papier terrier. Nous n'avions point cru par cette raison devoir différer à vous en instruire, quoique ce papier terrier soit encore imparfait. Telles sont, par exemple, les ventes que quelques seigneurs se mettent sur le pied de faire de leurs terres quoiqu'elles soient entièrement en bois debout, au lieu de les concéder simplement à raison d'un sol de cens par arpent et un chapon par chaque arpent de front ; ventes que quelques seigneurs cherchent à colorer ou à déguiser sous différents prétextes et par différentes voies détailées dans notre dernière lettre ; tel est encore le trafic des billets de concession que notre même lettre explique. Mais Sa Majesté a entendu vraisemblement statuer sur le tout par un seul et mesme réglement, et n'estime pas à propos d'en faire un séparé sur ces sortes de ventes.

Cependant s'il plaist à Sa Majesté d'ordonner de nouveau la publication des arrêts de 1711, de défendre à tous particuliers de vendre des terres en bois debout, à peine de nullité des contracts, de restitution du prix, et de donner un nouveau délai d'un an ou deux aux propriétaires des seigneuries, non

[1] Printed above, pp. 169–172.

encore défrichées pour les établir ou faire établir nous estimons, Monseigneur, indépendamment du papier terrier que ces ordres remédieroient en partie, s'ils ne le faisaient pas totalement, aux abus dont nous avons eu l'honneur de vous rendre compte.

À l'égard des concessions accordées par les seigneurs aux habitants, M. Hocquart s'est conformé jusques à présent à l'arrest du 16 juillet 1711 et a prononcé depuis qu'il est en Canada la réunion de plus de deux cents concessions aux domaines des seigneurs faute par les concessionnaires d'y avoir tenu feu et lieu.[1]

Il a cependant pris sur luy de donner un délay de six mois ou d'un an à ces concessionaires pour leur oster tout sujet de plainte, avant d'en venir à la réunion. Ce délay en a mis plusieurs en règle et les a engagé à establir leur terres pour se mettre à couvert de la peine portée par l'arrest du Conseil d'État du mois de juillet 1711.

Nous sommes avec un très profond respect, Monseigneur, vos très humbles et très obéissants serviteurs,

BEAUHARNOIS et HOCQUART.

À QUÉBEC, *le* 3 *octobre* 1731.

No. 50. Royal Arrêt ordering Seigniors to Cultivate their Lands and forbidding the Sale of Uncleared Lands, March 15, 1732.[2]

Édits et Ordonnances, I. 531.

LE roi s'étant fait représenter en son conseil l'arrêt rendu en icelui le six juillet, mil sept cent onze, portant que les

[1] An instance of the intendant's action may be found in *Édits et Ordonnances*, II. 508–510 (March 30, 1730).

[2] This decree, commonly known as the Arrêt of Versailles, seems to have been issued as a result of the request made by the governor and intendant that the provisions of the first Arrêt of Marly should be reiterated. See above, p. 170.

habitants de la Nouvelle-France, auxquels il auroit été accordé des terres en seigneuries, qui n'y auroient pas de domaines défrichés ni d'habitants établis, seroient tenus de les mettre en culture et d'y placer des habitants dans un an du jour de la publication du dit arrêt ; passé lequel tems elles demeureroient réunies au domaine de Sa Majesté, et que les dits seigneurs seroient aussi tenus de concéder aux habitants qui les demanderoient, à titre de redevance et sans exiger aucune somme d'argent, sinon permis aux dits habitans, en cas de refus après une sommation, de se pourvoir pardevant le gouverneur et lieutenant-général et l'intendant du dit pays, pour en obtenir les concessions aux mêmes droits imposés sur les autres terres concédées, lesquels droits seroient payés au receveur du domaine de Sa Majesté, sans que les seigneurs puissent rien prétendre sur les terres ainsi concédées : et un autre arrêt du même jour, six juillet, mil sept cent onze, portant que les concessionaires de terres en roture seroient tenus d'y avoir feu et lieu et de les mettre en valeur dans un an du jour de la publication, à peine de réunion au domaine des seigneurs sur les ordonnances de l'intendant.

Et Sa Majesté étant informée, qu'au préjudice des dispositions de ces deux arrêts, il y a des seigneurs qui se sont réservés dans leurs terres des domaines considérables, qu'ils vendent en bois debout au lieu de les concéder simplement à titre de redevances, et que des habitans qui ont obtenu des concessions des seigneurs les vendoient à d'autres, qui les revendent successivement, ce qui opère un commerce contraire au bien de la colonie, et étant nécessaire de remédier à des abus si préjudiciables : Sa Majesté étant en son conseil, a ordonné et ordonne que dans deux ans, à compter du jour de la publication du présent arrêt, tous les propriétaires des terres en seigneurie non encore défrichées, seront tenus de les mettre en valeur et d'y établir des habitans, sinon, et le dit tems passé, les dites terres demeureront réunies au domaine de Sa Majesté en vertu du présent arrêt, et sans qu'il en soit besoin d'autre.

Fait Sa Majesté très-expresses inhibitions et défenses à tous seigneurs et autres propriétaires, de vendre aucunes terres en bois debout, à peine de nullité des contrats de vente, et de restitution du prix des dites terres vendues, lesquelles seront pareillement réunies de plein droit au domaine de Sa Majesté, et seront au surplus les dits deux arrêts du six juillet, mil sept cent onze, exécutés selon leur forme et teneur, et le présent sera registré au greffe du conseil supérieur de Québec, lu et publié partout où besoin sera.

Fait au conseil d'état du roi, Sa Majesté y étant, tenu à Versailles, le quinze mars, mil sept cent trente-deux.

PHELYPEAUX.

No. 51. Despatch of Messieurs de Beauharnois and Hocquart concerning the Enforcement of the Royal Decree relating to the Clearing of Seigniories, October 1, 1732.

Correspondance Générale, LVII. 8 ff.

MONSEIGNEUR,—

. . . Les Sieurs de Beauharnois et Hocquart ont reçu l'arrest qu'il a plu à Sa Majesté de faire rendre par lequel elle fait défenses à tous seigneurs et autres propriétaires de vendre aucunes terres en bois debout.[1] Cet arrest estoit nécessaire pour empescher des ventes aussy préjudiciables à l'avancement des establissements. Il a esté enregistré au Conseil et rendu public dans les villes et paroisses de cette colonie. Les Sieurs de Beauharnois et Hocquart veilleront à l'exécution. Quant aux arrests du mois de juillet 1711, si l'on n'a pas tenu exactement la main à faire réunir au domaine du Roy les seigneuries dont il n'y a encore aucune partie en valeur, comme la pluspart de celles qui sont dans ce cas-là ne sont point

[1] Printed above, pp, 174–176.

ou peu propres à faire des establissements, telles que sont celles du bas de la rivière jusqu'à Gaspé, cela n'a point nui au bien de la colonie. Sa Majesté n'en auroit fait aucun usage, et elles auroient tombé à d'autres propriétaires qui n'auroient pas esté plus en état de les mettre en valeur. Sa Majesté est instruite que depuis le Bic jusqu'au bas de la rivière les terres y sont communément mauvaises, et ce n'est que successivement et par un grand laps de temps que l'on peut espérer d'y faire des établissements.

À l'égard du second arrest qui concerne les concessions faites aux particuliers par les seigneurs, le Sieur Hocquart a prononcé depuis qu'il est en Canada plus de 400 réunions aux domaines des seigneurs faute par les habitants d'y avoir tenu feu et lieu.[1] Il est vray qu'avant de prononcer ces réunions il a donné 6 mois ou un an de délay aux habitants qui estoient dans le cas pour satisfaire au dit arrest. Ces délays qui n'estoient pas purement communicatoires ont mis en règle une partie de ces habitants et ont empesché les autres de se plaindre. . . .

BEAUHARNOIS. HOCQUART.

A QUÉBEC, *le premier* 8^{bre} 1732.

No. 52. Despatch of Messieurs de Beauharnois and Hocquart to the Minister asking for a Remission of the Quint on behalf of Major Péan, September 30, 1736.

Correspondance Générale, LXV. 3.

MONSEIGNEUR,—

M. Péan, Major de Québec, a fait depuis peu l'acquisition de la moitié de la terre et seigneurie de la Durantaye décrétée sur les héritiers des Sieur et Dame de la Durantaye suivant la

[1] *Cf.* above, pp. 93–94.

sentence d'adjudication du 14e aoust dernier pour la somme de 16,000 livres.[1]

Cet officier doit s'addresser à vous, Monseigneur, pour vous supplier de luy accorder la remise du droit de quint revenant à Sa Majesté pour la dite acquisition.[2]

Nous prenons la liberté de vous faire la même prière de lui accorder cette grâce en considération des services qu'il rend depuis 38 ans dans la colonie, et de ceux qu'il a rendus en dernier lieu au Détroit où il a commandé pendant trois ans avec beaucoup de conduite et de zèle pour le service.

Nous savons d'ailleurs, Monseigneur, que vous l'avez en toute occasion honoré de vos bontés.

Nous sommes avec un très profond respect, Monseigneur,

BEAUHARNOIS. HOCQUART.

À QUÉBEC, *le* 30 *septembre* 1736.

No. 53. Despatch of Messieurs de Beauharnois and Hocquart to the Minister concerning various Seigniorial Grants, October 15, 1736.

Correspondance Générale, LXV. 76 ff.

MONSEIGNEUR,—

. . . Le nommé Eustache Lienard dit Mondor[3] ne s'est point présenté à nous depuis qu'il est arrivé de France.

[1] The seigniory of St. Michel, here referred to, had been originally granted to Olivier Morel de la Durantaye in 1696 (*Titres des Seigneuries*, 424). On August 14, 1736, a judicial decree awarded part of it to the wife of Ives Jacques Péan (*Actes de Foi et Hommage*, III. 171).

[2] The *droit de quint* was fixed by the Custom of Paris (Article XXV.) at one-fifth of the value of the seigniory, but it was the practice of the crown to allow a rebate of one-third of the amount (*cf.* F. J. Cugnet, *Traité de la loi des fiefs*, Quebec, 1775, p. 11). The amount became due and payable upon the occasion of each mutation in ownership of a seigniory, unless the change were the result of inheritance in direct succession.

[3] Eustache Lienard *dit* Mont d'Or.

La demande qu'il vous a faite, Monseigneur, d'une concession derrière celle accordée dans le sud du fleuve S^t^ Laurent, à prendre depuis le Saut de la Chaudière, à courir du costé de la Rivière du Chesne, nous paroît faite hors de propos.

Car si c'est une concession qu'il demande en seigneurie il ne convient point qu'un simple habitant possède des fiefs, et si c'est une concession à cens et rentes les propriétaires des nouvelles seigneuries concédées de ce côté là ne demandent pas mieux que de concéder des terres à des habitants. Et Mondor peut s'adresser à eux.

Quant à l'affaire qu'il a avec le nommé Louis Levasseur et pour laquelle le dit Mondor s'estoit pourvu en cassation de deux arrêts rendus au Conseil Supérieur, Levasseur n'est point du tout disposé à entrer dans aucun accommodement, et veut s'en tenir à son droit acquis au surplus nous n'avons eu aucune nouvelle de Mondor. M. Hocquart pourra vous dire, Monseigneur, les raisons qui l'empèchent de se montrer, qui sont tristes pour cet habitant.

Le sieur De Chévigny [1] a fait fabriquer dans la Seigneurie de Berthier pendant une partie de l'esté environ un milier de bray sec, et pareille quantité de résine qui seront embarqués sur le vaisseau du Roy.

Nous avons remis aux Sieurs De la Pérade [2] et Longueuil [3] les brevets de confirmation que vous avez eu agréable de leur procurer pour les concessions qui leur ont ésté cy-devant accordées.

Nous avons informé le Chapitre que Sa Majesté avoit approuvé que nous eussions empêché l'establissement de la seigneurie qu'il prétend luy appartient, proche le long saut, et que nous lui expédierons une concession d'une pareille

[1] François de Chavigny, Sieur de la Chevrotière.

[2] Thomas Tarieu, Sieur de la Pérade. The royal ratification, dated April 20, 1735, may be found in *Titres des Seigneuries*, 177.

[3] The grant had been made to Joseph Lemoyne de Longueuil on April 21, 1734 (*Ibid.*, 173). The royal ratification followed on February 8, 1735 (*Brevets de Ratification*, 92).

estendue dans le Lac Champlain, sur quoy s'estant assemblés ils ont fait la délibération dont l'acte est cy-joint.

Nous avons, Monseigneur, fait expédier pour le Sieur Raimbault une concession dans le Lac Champlain [1] de quatre lieues de front sur cinq de profondeur. Nous la luy avons donnée de cette estendue à cause de sa nombreuse famille qui consiste en quatorze enfans, car les concessions ordinaires ne sont que de deux lieues. Il avait paru souhaiter en avoir une dans la grande Rivière au dessus de la seigneurie de Madame D'argenteuil, mais outre qu'il convient mieux pour l'augmentation de la colonie d'establir le Lac Champlain la concession que nous aurions accordée au Sieur Raimbault dans la grande Rivière n'auroit pu luy procurer d'autre avantage que celuy de la traite avec les sauvages qui descendent à Montréal, ce qu'il est important d'empêcher pour l'intérest du commerce de cette ville.

Nous joignons copie de cette concession et de deux autres que nous avons fait expédier aux Sieur Daillebout, D'Argenteuil,[2] et Douville;[3] nous vous prions, Monseigneur, d'en obtenir la ratification de Sa Majesté.

Nous sommes avec un très, &c. &c. BEAUHARNOIS.
HOCQUART.

Le 15e octobre 1736.

P.S.—Cy joint, Monseigneur, copie d'une concession que nous avons accordée au Sieur De Lafontaine.[4] Nous vous prions pareillement d'en obtenir la ratification de Sa Majesté.

HOCQUART.

[1] The concession to Pierre Raimbault, to which reference is here made, was given by the governor and intendant on October 8, 1736 (*Titres des Seigneuries*, 186).

[2] Jean Daillebout, Sieur d'Argenteuil. The title-deed is dated October 6, 1736 (*Ibid.*, 184).

[3] Michel Daigneaux, Sieur Douville. His title is dated October 8, 1736 (*Ibid.*, 187).

[4] The title to the fief of Livaudière was granted to the Sieur de la Fontaine de Belcourt (or Bellecourt) on October 10, 1736 (*Ibid.*, 202). The royal ratification was accorded on April 30, 1737 (*Brevets de Ratification*, 102).

No. 54. Proposals of Messieurs de Beauharnois and Hocquart [to Maurepas] regarding the Settlement of Lands at Pointe-à-la-Chevelure,[1] October 11, 1737.

Correspondance Générale, LXVII. 11 ff.

MONSEIGNEUR,—

Nous avons reçu la lettre que vous nous avez fait l'honneur de nous écrire sur le projet proposé par M^r. Hocquart pour l'établissement des terres qui sont vis-à-vis et proche le fort de la Pointe à la Chevelure et sur l'examen que nous avons fait de ce projet nous l'avons trouvé également avantageux au service du Roy et à l'accroissement de la colonie.

Ces terres sont très propres pour les cultures, tant par leur qualité que par leur situation dans la partie la plus méridionale de la colonie. Les jeunes habitans qui s'y établiront et qui seront nombreux dans peu d'années avec les mesures que nous prendrons sous votre bon plaisir seront d'un prompt secours pour le fort en cas d'attaque. La nécessité où l'on est actuelle-

[1] Pointe-à-la-Chevelure (Scalp Point) is better known as Crown Point, between Lake Champlain and Lake St. George. As early as 1726 the French had attempted to seize this strategic location, but had been deterred by the opposition of Massachusetts. Some five years later, however, the Sieur de la Fresnière was sent to the spot with a force of troops, and erected there a fortified post, which was called Fort St. Frederic. This was done under the direct instructions of Louis XV., communicated in a despatch to Messieurs de Beauharnois and Hocquart in the spring of 1731 (for this despatch see *Documents relative to the Colonial History of New York*, IX. 1024–1025). During the next few years considerable correspondence took place between the home and the colonial officials concerning various means of strengthening the post, deliberations which culminated in the proposal drafted by Hocquart and here elaborated. In general, the intendant's design was to establish a royal seigniory upon the lands in the vicinity of the fort, and within the limits of this to grant lands *en censive* to habitants at reasonable rates. The scheme may be compared with Talon's plan for the establishment of military cantonments along the Richelieu more than half a century before (see above, pp. 22–26).

ment d'y envoyer des vivres pour la subsistance de la garnison constitue le Roy dans une dépense considérable en voitures, et par eau, ce qui monte pour ce seul article à plus de 3000 livres par an. Cette dépense n'aura plus lieu dès qu'il se trouvera à portée du fort des habitans qui fourniront les bleds, bestiaux, ou lard nécessaires à la garnison.

Les concessions que nous accorderons donneront des cens et rentes dont le produit sera employé à l'entretient du fort. Chaque concession sera de trois arpens de front sur quarante de profondeur à la charge d'un sol de cens par chaque arpens de front, de vingt sols par chaque vingt arpens en superficie, et d'un demi minot de bled par chaque quarante arpents aussi en superficie au lieu de chapon, ce qui rendra au Roy dix livres par chaque habitant.[1]

Le terrain à établir consiste dans 6 lieues de terre de front vis-à-vis le fort, trois lieues en montant et trois lieues en descendant, et en outre dans tout celuy qui se trouve depuis le nouveau fort jusques à la rivière à la Barbue. On pourra placer sur les devantures jusqu'à 200 habitans et réserver pour le domaine du Roy toute la presqu'isle du nouveau fort en remontant jusques à 40 arpents de front, où M. de Lery[2] a déjà fait défricher 50 arpens en superficie pour découvrir les environs, desquels 50 arpents il y en a actuellement 15 à la charrue, le reste a été semé en prairies. On a esté obligé de faire construire sous le canon du fort une grange, une écurie et une étable qui servent aujourd'hui à loger les bestiaux nécessaires pour le transport du bois de chauffage, de sorte qu'il en coûtera peu pour mettre ce domaine en valeur jusqu'à concurrence de 120 arpents.

Une autre considération non moins importante c'est que cet établissement en fera faire d'autres de proche en proche le

[1] This was about the usual rate of *cens et rentes* current in the colony.

[2] Chaussegros de Léry, the military engineer. He had already prepared and sent to the authorities several plans and estimates of the fort at Pointe-à-la-Chevelure. See *Report on Canadian Archives*, 1906, I. 36–37.

long de la côte du Lac est de Ouest et réunira quelque jour une grande quantité d'habitans dans le governement de Montréal qui ne sont répandus aujourd'hui que le long des rivières.

Dans le nombre des cultures le tabac sera une de celles qui pourra prendre le plus de faveur à cause de la beauté du climat. Cette plante y murira beaucoup mieux qu'en tout autre endroit de la colonie.

Pour parvenir à faire l'établissement proposé il en coûtera peu eu égard aux avantages dont nous venons de rendre compte. Les particuliers n'ont jusqu'à présent employé d'autre moyen pour établir les seigneuries qui leur ont esté concédées qu'en y faisant bâtir des moulins pour l'usage de leurs habitants. Quand ils ont esté en situation d'y faire bâtir des églises et d'y entretenir des curés, leurs terres se sont établies promptement.

Le Roy entretient aujourd'huy un aumonier dans le fort de la Pointe à la Chevelure. Les nouveaux habitants seront par là à portée de recevoir les secours spirituels dont ils auront besoin, et il n'est plus question pour les engager d'y aller s'establir que de leur bâtir un moulin à vent, n'y ayant point de ruisseaux assez abondants pour en faire construire un à l'eau. M^r. de Lery, qui connaît les lieux, est d'avis de le faire construire à une pointe avancée qui est sous le canon du fort, qui est l'endroit le plus convenable et le mieux exposé. Nous joignons un plan et un devis estimatif de ce bâtiment dont la dépense montera à 2484 livres, 16 sols, 8 deniers, et auquel nous ferons travailler aussitôt que nous aurons reçu vos ordres. M. Hocquart doit comprendre dans l'état des munitions à demander l'année prochaine la moulange et les ustensiles nécessaires. Nous estimons qu'au moyen de cet arrangement il nous sera aisé d'engager plusieurs jeunes gens à aller s'établir dans ces quartiers. Pour les y déterminer absolument, du moins les premiers qui se présenteront, et il s'en est déjà présenté, il conviendra de leur procurer quelque secours la première année. Ces secours consistant dans une

ration et quelques ustensiles comme hache, pioche, et charrue que nous évaluons à la somme de 150 livres pour chacun des six premiers habitans qui y auront tenu feu et lieu pendant un an. Lorsque ces six habitans seront établis, il n'en manquera point d'autres qui suivront leur exemple. Il y a encore d'autres moyens pour les y attirer, par exemple de charger dans le commencement le garde magasins du fort de quelques munitions et marchandises les plus nécessaires aux habitans et de les leur vendre à un bon prix, de leur faire remise pendant les deux ou trois premières années de leurs cens et rentes. Nous employerons successivement ces moyens s'il est nécessaire.

L'exploitation d'un moulin coûtera quelque chose pendant les 4 ou 5 premières années. On trouvera facilement un soldat de la garnison du fort qui s'en chargera et moudra le grain des premières habitants moyennant 50 livres par an de gages jusqu'à ce que le produit des moutures puisse entretenir un meunier qui payera en outre une ferme au Roy, lorsque le terrain en question sera bien établi.

Il y a déjà 50 arpens de terre défrichés dans le terrain réservé. Il conviendra, si vous l'approuvez, d'en faire défricher encore 70. Les soldats de la garnison y seront employés. Il n'en coûtera pas au Roy plus de 50 livres par arpent. Alors le domaine qui sera de 120 arpens de terre en valeur produira de quoy nourrir la garnison avec le secours qu'on tirera des nouveaux habitants. Et si dans la suite Sa Majesté est dans l'intention d'agrandir le domaine, il y a du terrain pour cela. Les soldats qui sont aujourd'huy en garnison dans le fort ont beaucoup de peine à vivre avec la ration du Roy qui consiste dans 45 lb. de pain et 7½ lb. de lard par mois. Ce qui ne peut leur suffire, et ils resteront dans cette situation jusqu'à ce que par quelques travaux qu'ils feront chez les nouveaux habitants ou sur le domaine du Roy, ils se procurent par eux-mesmes quelque aisance. Cela est d'autant plus nécessaire que les soldats y sont à portée de déserter et de passer aux Anglais.

M^r. de Beauharnois est obligé de les relever souvent par cette raison aussi bien que pour les soulager, ce qui constitue toujours le Roy en de nouvelles dépenses.

Pour prévenir les désertions, il convient de traiter un peu mieux le soldat. M. Hocquart à cet effet y a envoyé quelques bœufs qui serviront à rafraîchir la garnison pendant le cours de l'hiver.

Les officiers sont dans le même cas que les soldats pour les incommodités de la vie. Il n'y a que les motifs de l'honneur qui les y font aller lorsqu'ils sont commandés.

Le nom du fort de la Pointe à la Chevelure ne nous paraît pas convenir à un fort français. Nous vous demandons, Monseigneur, la permission de l'appeler le fort Maurepas. La beauté et la solidité de l'ouvrage méritent qu'il porte votre nom. Nous sommes, &c.

BEAUHARNOIS.
HOCQUART.

No. 55. Memoir [of Hocquart] to the Minister containing a Characterisation of the French-Canadian Population [November 8, 1737].[1]

Correspondance Générale, LXVII. 40 ff.

LA colonie de la Nouvelle-France peut comprendre environ 40,000 personnes de tout âge et de tout sexe,[2] sur lesquelles il se trouve dix mille hommes en estat de porter les armes.

[1] This very interesting portraiture of the Canadian population does not bear any signature; but there are several definite indications that it was written by Gilles Hocquart, intendant of New France. It may be very profitably compared with the description given by Lahontan some thirty years earlier (*New Voyages*, ed. Thwaites, I. 34–35), and with that given by the Scandinavian naturalist, Peter Kalm, some years later (*Travels into North America*, Vol. I. *passim*, especially, p. 287).

[2] The exact number, as given in the census of 1734, was 37,716. See Johnson, *Censuses of Canada*, 1665–1871, p. 61.

Les Canadiens sont naturellement grands, bien faits, d'un tempérament vigoureux. Comme les arts n'y sont point gênés par des maîtrises, et que dans les commencements de l'établissement de la colonie les ouvriers étoient rares, la nécessité les a rendus industrieux de génération en génération. Les habitans des campagnes manient tous adroitement la hache. Ils font euxmêmes la pluspart des outils et ustensiles de labourage, bâtissent leur maisons, leurs granges. Plusieurs sont tisserans, font de grosses toiles et des étoffes qu'ils appellent droguet, dont ils se servent pour se vêtir eux et leur famille.

Ils aiment les distinctions et les caresses, se piquant de bravoure, sont extrêmement sensibles aux mépris et aux moindres punitions : ils sont intéressés, vindicatifs, sont sujets à l'ivrognerie, font un grand usage de l'eau-de-vie, [et] passent pour n'être pas véridiques.

Ce portrait convient au grand nombre particulièrement aux gens de la campagne. Ceux des villes sont moins vicieux. Tous sont attachés à la religion. On voit peu de scélérats. Ils sont volages, ont trop bonne opinion d'euxmêmes, ce qui les empêche de réussir comme ils pourroient le faire dans les arts, l'agriculture et le commerce. Joignons à cela l'oisiveté à laquelle la longueur et la rigueur de l'hiver donne occasion. Ils aiment la chasse, la navigation, les voyages et n'ont point l'air grossier et rustique de nos paysans de France. Ils sont communément assez souples lorsqu'on les pique d'honneur et qu'on les gouverne avec justice, mais ils sont naturellement indociles. Il est nécessaire de fortifier de plus en plus l'exacte subordination qui doit estre dans tous les ordres, particulièrement dans les gens de la campagne. Cette partie du service a esté de tout temps la plus importante et la plus difficile à remplir. Un des moyens pour y parvenir est de choisir pour officiers dans les costes les habitans les plus sages et les plus capables de commander, et d'apporter de la part du gouvernement toute l'attention convenable pour les maintenir

dans leur autorité. On ose dire que le manque de fermeté dans les gouvernemens passés a beaucoup nui à la subordination. Depuis plusieurs années les crimes ont esté punis, les désordres ont éte reprimés par des châtiments proportionés. La police par rapport aux chemins publics, aux cabarets, etc., a esté mieux observée et en général les habitants ont esté plus contenus qu'ils ne l'estoient autrefois. Il y a quelques familles nobles en Canada, mais elles sont si nombreuses qu'il y a beaucoup de gentilshommes.

Voicy les noms des principales de ces familles:

Familles.	*Branches.*
Le Gardeur . . .	Repentigny. Croisille. Tilly et Beauvais. St. Pierre.
Denys	Denys de la Ronde. Bonaventure. De St. Simon.
Daillebout . . .	Périgny. Menthet.[1] Dargenteuil. Des Musseaux.
Boucher	Cette famille est établie à Boucherville, village près de Montréal, l'aîné, qui est âgé de près de 90 ans, a plus de 150 enfans, petits enfants, frères, neveux, petit neveux.
Contrecœur . . .	Toutes ces familles viennent du régiment de Carignan, envoyé en Canada en 1665.
La Valterie . . .	
St. Ours	
Meloises	
Tarieu de la Pérade.	
Le Moyne	C'est la famille des Longueuils.
Aubert[2]	
Hertel	Ces deux familles sont très nombreuses.
Godefroy	
Damour	

[1] Manteht. *Cf.* Tanguay, *Dictionnaire Généalogique*, I. 153.
[2] Aubert de la Chesnaye.

Il y a d'autres gentilshommes qui sont dans les troupes, mais dont les familles sont moins anciennes dans le pays.

Tous les gentilshommes et enfans d'officiers désirent entrer dans le service, ce qui est louable en soy-même, mais comme la pluspart sont pauvres, plusieurs y entrent pour y trouver une petite resource dans la solde du Roy plustôt que par d'autres motifs. M. le Gouverneur-général choisit les meilleurs sujets. On a de la peine à engager les autres à faire valoir des terres. Peut-être conviendroit-il d'en faire passer quelques-uns en France pour y servir dans la marine, afin de s'attacher de plus en plus la noblesse et les gens du pays.[1]

. . . Les despêches écrites en 1733 au sujet des impositions nouvelles à établir pour rendre les peuples plus laborieux, plus industrieux, et pour subvenir en même temps aux dépenses que le Roy veut bien faire pour soutenir la colonie ont traité au long cette matière. [Unsigned.]

No. 56. Royal Arrêt concerning Concessions and Revocations of Lands in the Colonies, July 17, 1743.[2]

Édits et Ordonnances, I. 573–574.

Louis, par la grâce de Dieu, roi de France et de Navarre, à tous ceux qui ces présentes lettres verront, salut.

Nous avons, à l'exemple des rois nos prédécesseurs, autorisé

[1] On the personnel and condition of the noblesse of the old régime, *cf.* Benjamin Sulte on "L'ancienne noblesse du Canada," in *Revue Canadienne*, May–July, 1885, pp. 298–405 *passim;* J. D. Edgar on "Titles of Honour in Canada," in *University* [*of Toronto*] *Quarterly Review*, February, 1890, pp. 88–104; and Munro, *The Seigniorial System in Canada*, chap. ix.

[2] Although from time to time instructions had been given that grants of seigniories should be made by the governor and intendant jointly, and that all revocations of titles for failure to fulfil the conditions upon which grants were made should be decreed by those officials (see above, pp. 41, 91), the exact procedure to be followed in making grants and revocations had never been laid down until the issue of this arrêt in 1743.

les gouverneurs et intendans de nos colonies de l'Amérique, non seulement à faire seuls les concessions de terres que nous faisons distribuer à ceux de nos sujets qui veulent y faire des établissemens, mais aussi de procéder à la réunion à notre domaine des terres concédées qui se trouvent dans le cas d'y être réunies, faute d'avoir été mises en valeur; et ils connoissent pareillement, à l'exclusion des juges ordinaires, de toutes les contestations qui s'élèvent entre les concessionaires ou leurs ayans cause, tant par rapport à la validité et à l'exécution des concessions que pour raison de leurs positions, étendues et limites. Mais nous sommes informés qu'il n'y a eu jusqu'à présent rien de certain ni sur la forme de procéder soit aux réunions des concessions, soit à l'instruction et aux jugemens des contestations qui naissent entre les concessionaires ou leurs ayans cause, ni même sur les voies qu'on doit suivre pour se pourvoir contre les ordonnances rendues par les gouverneurs et intendans sur cette matière; en sorte que non-seulement il s'est introduit des usages différens dans les diverses colonies, mais encore qu'il y a eu de fréquentes variations à cet égard dans une seule et même colonie. C'est pour faire cesser cet état d'incertitude sur des objets si intéressans pour la sûreté et tranquillité des familles, que nous avons résolu d'établir, par une loi précise, des règles fixes et invariables qui puissent être observées dans toutes nos colonies, tant sur la forme de procéder à la réunion à notre domaine des concessions qui devront y être réunies, et à l'instruction des discussions qu'elles pourront occasionner, que pour les voies auxquelles pourront avoir recours ceux qui croiront avoir lieu de se plaindre des jugemens qui seront rendus.

À ces causes et autres à ce nous mouvant, de l'avis de notre conseil et de notre certaine science, pleine puissance et autorité royale, nous avons dit, déclaré, et ordonné, et par ces présentes signées de notre main, disons, déclarons et ordonnons, voulons et nous plait ce qui suit:

Article I. Les gouverneurs, lieutenans-généraux pour nous

et les intendans de nos colonies, ou les officiers qui les représenteront à leur défaut ou en leur absence des colonies, continueront de faire conjointement les concessions des terres aux habitans qui seront dans le cas d'en obtenir pour les faire valoir, et leur en expédieront les titres aux clauses et conditions ordinaires et accoutumées.

II. Ils procéderont pareillement à la réunion à notre domaine des terres qui devront y être réunies, et ce à la diligence de nos procureurs des jurisdictions ordinaires, dans le ressort desquelles seront situées les dites terres.

III. Ils ne pourront concéder les terres qui auront été une fois concédées, quoiqu'elles soient dans le cas d'être réunies qu'après que la réunion en aura été prononcée, à peine de nullité des nouvelles concessions, et sans préjudice néanmoins de la réunion, laquelle pourra toujours être poursuivre contre les premiers concessionaires.

IV. Les gouverneurs et lieutenans-généraux pour nous et les intendans, ou les officiers qui les représenteront à leur défaut ou en leur absence des colonies, continueront aussi de connoître, à l'exclusion de tous autres juges, de toutes contestations qui naîtront entre les concessionaires ou leurs ayans cause, tant sur la validité et exécution des concessions, qu'au sujet de leurs positions, étendues et limites, et dans le cas où il y aura des mineurs qui seront parties dans les dites contestations, elles seront communiquées à nos procureurs des jurisdictions ordinaires, dans le ressort desquelles les gouverneurs et intendans feront leur résidence, pour y donner leurs conclusions de la même manière que si les dites contestations étoient portées aux dites jurisdictions ; n'entendons [pas] néanmoins comprendre dans la disposition du présent article, les contestations qui naîtront sur les partages de familles, dont les juges de nos jurisdictions ordinaires continueront de connoître.

V. Déclarons nulles et de nul effet toutes concessions qui ne seront pas faites conjointement par le gouverneur et

l'intendant, ou par les officiers qui doivent les représenter respectivement, comme aussi toutes réunions qui ne seront pas prononcées, et tous jugemens qui ne seront pas rendus en commun par eux ou leurs représentans. Autorisons néanmoins l'un des deux, dans le cas de décès de l'autre, ou de son absence de la colonie et de défaut d'officiers qui puissent représenter celui qui sera mort ou absent, à faire seul les concessions, même à procéder aux réunions à notre domaine, et aux jugemens des contestations formées entre les concessionaires, en appelant cependant, pour les jugemens des dites contestations, seulement tels officiers des conseils supérieurs ou des jurisdictions qu'il jugera à propos ; et il sera tenu de faire mention tant dans les concessions et réunions, que dans les jugemens des contestations particulières, de la nécessité où il se sera trouvé d'y procéder ainsi, et ce, à peine de nullité.

VI. Dans le cas où les gouverneurs et intendans se trouveront d'avis différens sur les demandes qui leur seront faites de concessions de terres, voulons qu'ils suspendent d'en expédier les titres jusqu'à ce que nous leur ayons donné nos ordres, sur le compte qu'ils nous rendront de leurs motifs, et dans les cas de partage d'opinions entr'eux, soit pour les jugemens de réunion, soit pour ceux des contestations d'entre les propriétaires de concessions, ils seront tenus d'y appeler le doyen du conseil supérieur, ou en cas d'absence ou d'empêchement légitime, le conseiller qui le suit, selon l'ordre du tableau, le tout sans préjudice de la prépondérance de la voix des gouverneurs dans les affaires concernant notre service, où elle doit avoir lieu.

VII. Dans les affaires où il écherra d'ordonner des descentes sur les lieux et des nominations et rapports d'experts, ou de faire des enquêtes, les dispositions prescrites à cet égard, par les titres vingt-un et vingt-deux de l'ordonnance de mil six cent soixante-sept, seront observées à peine de nullité.

VIII. Pourront les parties se pourvoir par appel en notre

conseil[1] contre les jugemens qui seront rendus par les gouverneurs et intendans, tant sur les dites contestations particulières, que par les réunions à notre domaine. Les dits appels pourront être interjetés par de simples actes, et les requêtes qui seront présentées en conséquence seront remises avec les productions des parties es mains du secrétaire d'état, ayant le département de la marine, pour sur le rapport qui en sera par lui fait en notre conseil, être par nous statué ce qu'il appartiendra.

Si donnons en mandement à nos amés et féaux les gens tenant notre conseil supérieur de Canada, que ces présentes ils aient à faire lire, publier et registrer, et le contenu en icelles garder, observer et exécuter selon leur forme et teneur, nonobstant tous édits, déclarations, arrêts et ordonnances, réglemens et autres choses à ce contraires, auxquelles nous avons dérogé et dérogeons par ces présentes : car tel est notre plaisir.

En temoin de quoi nous y avons fait mettre notre scel.

Donné à Versailles, le dix-septième jour du mois de juillet, l'an de grâce mil sept cent quarante-trois, et de notre règne le vingt-huitième. Louis.

[1] The *Conseil d'État du Roi* in France, not the *Conseil Supérieur* at Quebec.

PART II

No. 57. Extracts from the Articles of Capitulation of Montreal, September 8, 1760.[1]

Canadian Archives, Series Q, LXII. A, pt. i. 103.

ARTICLES of Capitulation between their Excellencies, Major-General AMHERST, Commander-in-Chief of His Britannic Majesty's troops and forces in North America, on the one part, and the MARQUIS DE VAUDREUIL, &c., Governor and Lieutenant-General for the King in Canada, on the other. . . .

Article 34.

All the communities and all the priests shall preserve their movables, the properties and revenues of the seigniories and other estates, which they possess in the colony, of what nature soever they be; and the same estates shall be preserved in their privileges, rights, honours, and exemptions. "Granted."

Article 37.

The lords of manors, the military and civil officers, the Canadians as well in the towns as in the country, the French settled, or trading in the whole extent of the colony of

[1] The full text of the Articles of Capitulation (in both English and French) may be conveniently found in William Houston's *Documents illustrative of the Canadian Constitution* (Toronto, 1891), 32–60. The French text of the document being official, there is no authoritative English version. The two articles here printed are translated from the official French text, a copy of which is published in Adam Shortt and A. G. Doughty's *Documents relating to the Constitutional History of Canada* (Ottawa, 1907), 3 ff.

Canada, and all other persons whatsoever, shall preserve the entire peaceable property and possession of their goods, noble and ignoble, movable and immovable, merchandises, furs, and other effects, even their ships; they shall not be touched, nor the least damage done to them, on any pretext whatever. . . . "Granted as in the 26th article."[1]

No. 58. Decision of the Military Court in the Case of Le Duc *vs.* Hunaut, April 20, 1762.

Correspondence relative to the Seigniorial Tenure, 57.

Council composed of Colonel Haldimand, the Baron de Munster, Prévôt, and Wharton, Captains. Held on the 20th April 1762.

Between the sieur Jean Baptiste Le Duc, seignior of Isle Perrot, appellant, from the sentence of the militia court (*chambre des milices*) of Pointe-Claire, of the 15th March last, of the one part,

And Joseph Hunaut, an inhabitant of Isle Perrot aforesaid, defendant in appeal, of the other part.

Having seen the sentence appealed from, by which the said sieur Le Duc is adjudged to receive in future the rents of the land which the defendant holds in his seigniory at the rate of thirty sous a year and half a minot of wheat, inasmuch as the court could not amend any of the clauses contained in the deed of concession executed before Maître Lepailleur, notary, on the 5th August, 1718; the petition of appeal presented to this Council by the said sieur Le Duc, the appellant, answered on the 19th March last, and notified on

[1] The memorandum of agreement attached to the 26th article was as follows: "Granted, with regards to what may belong to the Company, or to private persons; but if His Most Christian Majesty has any share in it, that must become the property of the King."

the 3rd instant; a written defence furnished by the defendant, and the deed of concession referred to; and having heard the parties:

The Council, convinced that the clause inserted in the said deed, by which the lessee (*preneur*) is charged with the annual payment of half a minot of wheat and ten sous for each arpent, is an error of the notary,[1] *the usual rate at which lands are granted in this country being one sou for each arpent in superfices and half a minot of wheat for each arpent in front by twenty in depth*,[2] orders that in future the rents of the land in question shall be paid at the rate of fifty-four sous in money and a minot and a half of wheat a year. Each party to bear his own costs. PANET, *Clerk*.

No. 59. Title-deed of the Seigniory of Murray Bay, granted to Captain John Nairne of the 78th Regiment, April 27, 1762.[3]

Canadian Archives, Series P, CXXXVII. 94.

BY the Honourable JAMES MURRAY, Esquire, Governor of Quebec, &c.

Whereas it is a national advantage and tends to promote the cultivation of lands within the province to encourage His Majesty's natural-born subjects settling within the same:

For these purposes, and in consideration of the faithful

[1] During the old régime all contracts concerning land were drawn up by a notary, and copies were given by him to the contracting parties.

[2] *Cf.* above, p. 74.

[3] This is a copy of the title-deed of one of the three seigniorial grants made subsequent to the conquest. In drafting the deed Murray appears to have followed the text of an earlier grant made under the provisions of the French Vexin (see above, p. 75); for it will be noticed that provision is made for the payment of a relief, and not of the regular quint provided for in the Custom of Paris.

services rendered by John Nairne, Esquire, captain in the 78th regiment of foot, unto His Majesty, I do hereby give, grant, and concede unto the said Captain John Nairne, his heirs, executors, and administrators for ever, all that extent of land lying on the north side of the river St. Lawrence from the Cap aux Oyes, limit of the parish of Eboulemens, to the south side of the river of Malbaie, and for three leagues back, to be known hereafter, at the special request of said John Nairne, by the name of Murray's Bay; firmly to hold the same to himself, his heirs, executors, and administrators for ever, or until His Majesty's pleasure is further known, for and in consideration of the possessor's paying liege homage to His Majesty, his heirs and successors, at his Castle of St. Lewis in Quebec on each mutation of property, and, by way of acknowledgment, a piece of gold of the value of ten shillings, with one year's rent of the domain reserved, as customary in this country, together with the woods and rivers, or other appurtenances within the said extent, right of fishing or fowling on the same therein included without hindrance or molestation; all kind of traffic with the Indians of the back country hereby specially excepted.

Given under my hand and seal at Quebec, this 27th day of April 1762. JAS. MURRAY.

No. 60. Report of General James Murray[1] on the State of Canada under French Administration, June 5, 1762.

Canadian Archives, Series B, Vol. VII.

. . . THE governor-general was chief in all military and the intendant in all civil affairs; the latter superintended the

[1] Brigadier-General James Murray had been one of Wolfe's chief officers at the capture of Louisburg and of Quebec. During the period of military rule (1760–1764) he was governor of the military district of Quebec; and upon the

justice, police, and finances of the government; he heard and judged definitively all trifling causes; appeals from [the regulations of] the inspector of highways were referred to his decision. He issued regulations for the police of the town and country, and emitted his ordinances fixing a price upon all kinds of provision, at his will and pleasure.[1]

For the easier administration of justice, he commissioned three sub-delegates residing at Quebec, Montreal, and Three Rivers, who took cognisance of such matters as were not very intricate; but from their judgments the parties might appeal to the intendant.

The Prévôté of Quebec was a court of justice, composed of a lieutenant-general, a lieutenant-particulier, a *procureur du roi*, or King's attorney; they judged all matters civil in the first instance, and all appeals from their sentence were brought before the *Conseil Supérieur*.

The Prévôté likewise took cognisance of appeals from the private jurisdictions, which could be carried again from this court before the *Conseil Supérieur*.

In capital crimes, or such as deserved severe penalties, the lieutenant-general called into his assistance two of the most eminent lawyers; but still their sentence could not be carried into execution until the same was confirmed by the council, at which seven of the members at least must be present.

Attending this court were six notaries public, a clerk, and six *huissiers*, of which one was crier.

The governments of Trois-Rivières and Montreal[2] had

departure of Amherst in the latter year he was promoted to the governorship of the colony, a post which he held until 1768. Murray was thus the first English civil governor of Canada. An exact transcript of this report is printed in Shortt and Doughty's *Documents*, 31–61. The reports of Burton and Gage, which were transmitted at the same time, may be found, *Ibid.*, 61 ff.

[1] The exact powers of the intendant in the realms of "justice, police, and finance" are set forth in "The Office of Intendant in New France," *American Historical Review*, October, 1906, pp. 15–38.

[2] During the French period the districts of Three Rivers and Montreal were commonly known as the "governments." See above, p. 118, note 2.

each their lieutenant-general, a King's attorney, clerk, notaries, and *huissiers*.

From these several courts appeals were brought before the *Conseil Supérieur* established at Quebec, composed of a first counsellor, who generally presided, and eleven others, of which one or two were priests; these never were present in criminal matters; the other officers attending this court were, an attorney-general, a chief clerk, and a *premier huissier*.

At Quebec was also a court of admiralty, consisting of a lieutenant-general, commissioned by the high admiral of France, a King's attorney, a clerk, and a *huissier*: this court took cognisance of maritime affairs, and appeals from thence were carried before the *Conseil Supérieur*.

There was also an inspector of the highroads, or *grand voyer*, who had the regulation of all matters relative to them; difficulties which arose from this officer's regulations were decided by the intendant.

The only laws were the King's edicts, or the *arrêts* of his Council of State, registered at the *Conseil Supérieur*, and the intendant's ordinances. In matters of property, they followed the Custom of Paris, but in marriage settlements they were at liberty to follow the custom of any other province in that kingdom.[1]

The age of majority was fixed at twenty-five; but at eighteen, or upon marriage, the council granted them letters of emancipation, which entitled them to enter immediately into the enjoyment of the movables and incomes of their estates.

[1] There does not seem to have been any edict regulating marriage contracts in New France except that of May 6, 1733 (*Édits et Ordonnances*, I. 541–544); and this decree makes no such provision regarding settlements. No special authority was, however, necessary; for the laws of the old régime permitted wide freedom in the making of marriage settlements, and it was apparently quite common, when the contracting parties so desired, to stipulate in the contract that their property rights should be governed by the terms of some *coutume* other than that of Paris.

Guardians are chosen by an assembly of seven of the nearest relations of the minors, and for want of these, of so many of their friends. A public act is drawn out of this transaction, which is registered, and the person elected is sworn to administer faithfully.

The tenure of lands here is of two sorts :—

I. *The Fiefs or Seigneuries.* These lands are deemed noble; on the demise of the possessor, his eldest son inherits one-half, and shares with the other children in the remainder; if any of these die without posterity, the brothers share the portion of the deceased exclusive of their sisters. The purchaser of these fiefs enters into all the privileges and immunities of the same, but pays a fifth of the purchase-money to the sovereign, who is lord of the soil. By law the seigneur is restricted from selling any part of his land that is not cleared, and is likewise obliged (reserving a sufficiency for his own private domain) to concede the remainder to such of the inhabitants as require the same, at an annual rent, not exceeding one *sol*, or one half-penny sterling, for each arpent in superficies.[1] The seigneurs have had the right of *haute*, *moyenne*, *et basse justice*, in their several fiefs, but this was attended with so many abuses and inconveniences that the inferior jurisdictions were mostly disused.

II. *Terre en Roture.* The lands conceded by the seigneurs is the second sort of tenure, and these are called *terres en roture*. The property is entirely in the possessors, and the rent they pay can never be raised upon them. They can sell it as they please, but the purchaser is obliged to pay a twelfth part of the purchase-money to the seigneur. The children of both sexes share equally in the lands, but if upon a division, the several parts are found unequal to the subsistence of a family, they are obliged to sell to one another. By law, no man can build upon a piece of land of less extent than one arpent and a half in front, upon a depth of thirty or forty. This was done with a

[1] *Cf.* above, p. 91, note 1.

view to promote cultivation, and to oblige the inhabitants to spread;[1] edicts have been published from time to time to reunite such lands to the Crown as were not settled within a term of years prescribed: the last of these was published in one thousand seven hundred and thirty-two, a copy of which is annexed.[2]

The Canadians are formed into a militia, for the better regulation of which each parish, in proportion to its extent and number of inhabitants, is divided into one, two, or more companies, who have their proper officers, captains, lieutenants, ensigns, aide-majors, serjeants, &c., and all orders or public regulations are addressed to the captains or commanding officers, who are to see the same put into execution. From these companies detachments are formed and sent to any distance, and in one thousand seven hundred and fifty-nine, and one thousand seven hundred and sixty, the whole were in arms for the defence of their country.

Observations.

1. The intendant's fixing a price upon provisions at his own will and pleasure was liable to much abuse, for though the country was abounding with all kinds of grain, yet under pretence that a large quantity was wanted for the King's service, repeated levies were made upon the inhabitants, through every part of the province, proportionably to what it was supposed they could spare, the intendant paying such price as he pleased to set upon it; great part of which grain was afterwards exported by his emissaries to the French islands, and when a scarcity was apprehended, they sold the remainder to the public at an advanced price.

Under pretence of a scarcity of black cattle, and before

[1] The ordinance establishing this prohibition may be found in *Édits et Ordonnances*, I. 585–586.

[2] Printed above, pp. 174–176.

the British troops had made any impression on the colony, horses were killed and served to the troops, probably to excuse the exorbitant charge for all kinds of provisions purchased on the King's account, for notwithstanding the waste made by the two contending armies, and that the French troops lived entirely upon the country for near two years, we have the strongest occular proof there was no occasion to have recourse to this expedient, if the King's officers had not meant it as a cloak to their knavery.

2. The members of the courts of justice were mostly natives of Old France, and minded more their own affairs than the administration of justice. Their decisions therefore were not much respected, and indeed, for success, the parties generally depended more upon the favour and protection of the great than upon the goodness and justice of their cause.[1]

3. Though the governor-general, the bishop, and the intendant were, by their several offices, presidents of the council, and that heretofore they had used to be present at their deliberations, in latter times they never honoured it with their presence; a circumstance that contributed much to the general disesteem in which this part of the judicature had fallen.

4. The office of *grand voyer*, or inspector of the highroads, under proper regulations and restrictions, seems to be highly necessary for the care and benefit of the interior commerce.

5. The Canadians mostly of a Norman race, are in general of a litigious disposition; the many formalities in their procedures and the multiplicity of instruments to be drawn upon every occasion seem to encourage this disposition. A short and well-digested code, by laying aside many of these, may in a good measure serve to correct it.

[1] It is, of course, true that the judicial system of the old régime was not without flaws; but in neither the seigniorial nor the royal courts of the colony was the administration of justice of such a nature as to warrant the strictures which Murray here puts upon it.

Fixing the age of majority [at twenty-one], as in other parts of His Majesty's dominions, is an innovation which could not fail of being agreeable to the youth, as the freedom of building where they see convenient, and upon such extent of ground as they think proper, would be acceptable to all the people in general, and promote new establishments; especially the fisheries in the lower parts of the river and gulf of St. Lawrence. . . .[1]

. . . The Canadians may be ranked under four different classes:—

1. The Gentry, or what they call nobility.
2. The Clergy.
3. The Merchants, or trading part.
4. The Peasantry, or what is here styled *habitans*.

1. The *Gentry*. These are descended from military and civil officers who have settled in the country at different times, and were usually provided for in the colony troops; these consisted formerly of twenty-eight, afterwards thirty, and had been lately augmented to forty companies; they are in general poor, except such as have had commands in distant posts, where they usually made a fortune in three or four years; the *Croix de St. Louis* quite completed their happiness.

They were extremely vain, and have an utter contempt of the trading part of the colony, though they made no scruple to engage in it, pretty deeply too, whenever a convenient opportunity served; they were great tyrants to their vassals; who seldom met with redress, let their grievances be ever so just.[2] This class will not relish the British government,

[1] The part of the report here omitted deals with colonial finances, trade, fisheries, church organisation, and other topics not related to land tenure or the progress of agriculture.

[2] Murray's harsh opinion of the relation between seigniors and habitants apparently underwent a marked change during the ensuing three or four years. *Cf.* below, pp. 217–218.

from which they can neither expect the same employments, nor the same *douceurs*, they enjoyed under the French.

2. The Clergy. Most of the dignified among them are French; the rest Canadians, and are, in general, of the lower class of people; the former, no doubt, will have great difficulty to reconcile themselves to us, but must drop off by degrees. Few of the latter are very clever; however, if the ecclesiastical state was once composed entirely of natives, they would soon become easy and satisfied; their influence over the people was, and is still, very great; but though we have been so short a time in the country a difference is to be perceived; they do not submit so tamely to the yoke, and under sanction of the capitulation they every day take an opportunity to dispute the tithes with their curés. These were moved from their respective parishes at the bishop's pleasure, who thereby always kept them in awe. It may not be perhaps improper to adopt the same method in case His Majesty should think right, for the sake of keeping them in proper subjection, to nominate them himself, or by those who act under his authority.

It is not improbable that the Jesuits, warned by their late disgraces in the dominions of those potentates who seemed to favour them the most, and apprehending the like or worse treatment from those they styled heretics, will choose to dispose of their estates and retire. As they may, possibly, find some difficulty to get purchasers, the government might buy their lands at an easy rate, and dispose of the same to many good purposes.

3. The *Traders* of this colony, under the French, were either dealers *en gros* or retailers; the former were mostly French, and the latter, in general, natives of this country; all of whom are deeply concerned in the letters of exchange; many are already gone to solicit payment; and few of those who have any funds of consequence in France, will remain here.

4. The fourth order is that of the *Peasantry;* these are a strong, healthy race, plain in their dress, virtuous in their

morals, and temperate in their living; they are in general extremely ignorant, for the former government would never suffer a printing press in the country; few can read or write, and all receive implicitly for truth the many arrant falsehoods and atrocious lies industriously handed among them by those who were in power.

They took particular pains to persuade them the English were worse than brutes; and that, if they prevailed, the Canadians would be ruled with a rod of iron, and be exposed to every outrage; this most certainly did not a little contribute to make them so obstinate in their defence; however, ever since the conquest, I can with the greatest truth assert that the troops have lived with the inhabitants in a harmony unexampled even at home. I must here, in justice to those under my command in this government, observe to Your Lordships that in the winter which immediately followed the reduction of this country, when from the calamities of war, and a bad harvest, the inhabitants of these lower parts were exposed to all the horrors of a famine, the officers of every rank, even in the lowest, generously contributed towards alleviating the distresses of the unfortunate Canadians by a large subscription; the British merchants and traders readily and cheerfully assisted in this good work; even the poor soldiers threw in their mite, and all gave a day's provision or a day's pay in the month towards the fund; by this means, a quantity of provisions was purchased and distributed with great care and assiduity to numbers of poor families, who without this charitable support must have inevitably perished; such an instance of uncommon generosity towards the conquered did the highest honour to their conquerors, and convinced these poor deluded people how grossly they had been imposed upon. The daily instances of lenity, the impartial justice which has been administered, so far beyond what they had formerly experienced, have so altered their opinion with regard to us, I may safely venture to affirm, for

this most useful order of the state, that far from having the least design to emigrate from their present habitations into any other of the French colonies, their greatest dread is lest they should meet with the fate of the Acadians, and be torn from their native country.

Convinced that this is not to be their case, and that the free exercise of their religion will be continued to them, if once Canada is irrecoverably ceded by a peace, the people will soon become faithful and good subjects to His Majesty; and the country they inhabit will, in a short time, prove a rich and most useful colony to Great Britain.

Before this report is closed, it will not be improper to observe to Your Lordships how impossible it is to ascertain exactly what part of North America the French styled Canada, no chart or map whatever having fallen into our hands, or public records of any kind to show what they understood by it.[1]

However, it is to be hoped the limits on this side at least will need no canvassing nor admit of any dispute.

Should I be able to procure further lights relative either to those limits or the several other matters contained in this report worthy of notice, you may be assured they shall be forthwith transmitted to Your Lordships; happy if my labours can any way conduce to His Majesty's service or the good of my country. J. MURRAY.

QUEBEC, 6*th June* 1762.[2]

[1] This is explained by the fact that, when the French authorities withdrew from Canada in 1760, they were permitted to take with them all their confidential and official archives.

[2] The report is dated June 5, but was apparently signed a day later.

No. 61. Instructions to Governor James Murray concerning the Granting of Lands in Canada, December 7, 1763.

Canadian Archives, Series Q, LXII. A, pt. i. 128-198.

. . . 41. And whereas it is stipulated by the aforesaid treaty, concluded at Paris the 10th day of February 1763,[1] that the French inhabitants, or others, who have been subjects of the Most Christian King in Canada, may retire with all freedom and safety wherever they shall think proper, and may sell their estates, provided it be to our subjects, and bring away their effects, as well as their persons, without being restrained in their emigration under any pretence whatsoever, except that of debts, or criminal prosecution, and that the time limited for the emigration shall be fixed to the space of eighteen months, to be computed from the day of the exchange of the ratifications of the treaty; you are therefore in all things to conform yourself to this stipulation, and to take care that such of the French inhabitants as intend to remove within the time limited be not obstructed or impeded, provided they do not sell their estates to others than His Majesty's subjects, and that, so long as they remain under your government, they do in all things conform thereto in like manner as our other subjects.

42. And it is our further will and pleasure, that all and every the French inhabitants in our said province, who are now possessed of lands within the said province, in virtue of grants or concessions made before the signing of the preliminary Articles of Peace on the 3rd day of November 1762, do, within such limited time as you in your dis-

[1] The text of the Treaty of Paris may be conveniently found in George Chalmers's *Collection of Treaties between Great Britain and other Powers* (London, 1790), I. 467–483; and in Shortt and Doughty's *Documents*, 73–91.

cretion shall think fit, register the several grants, or other deeds or titles, by which they hold or claim such lands, in the secretary's office; which said grants, deeds, or other titles shall be entered at large in the said office, so that the particular quantity of land, its site and extent, the conditions upon which it is granted, either as to rents, services, or cultivation, may appear fully and at length.

43. And in case it shall appear, upon a strict and accurate examination of the said grants and title-deeds, to be taken in such manner as you shall think proper, that any of the grantees, or persons claiming lands under such grants and title-deeds are in possession of more land than is contained within such grants or other concessions; or that the terms and conditions, upon which the lands were granted, have not been complied with, agreeable to what is stipulated in such grants or concessions; it is our will and pleasure that you forthwith represent the same to us, by our Commissioners for Trade and Plantations, to the end you may receive such directions thereupon, as the nature and circumstances of the case shall appear to require.

44. And whereas it is necessary, in order to the advantageous and effectual settlement of our said province, that the true state of it should be fully known; you are therefore, as soon as conveniently may be, to cause an accurate survey to be made of the said province by such able and skilful person as is or shall be appointed for that service, who is to report to you in writing, for your judgment in the measures which you may in general pursue for the making of settlements, not only the nature and quality of the soil and climate, the rivers, bays, and harbours, and every other circumstance attending the natural state of it; but also his opinion, in what manner it may be most conveniently laid out into counties, and to annex to his report a map of such survey, with the several divisions proposed marked upon it; but as the making such survey will be a work of great length,

you are in the meantime to carry on settlements upon that plan which shall appear to you to be most expedient from the best information you can collect.

45. And whereas it has been found by experience, that the settling planters in townships hath very much redounded to their advantage, not only with respect to the assistance they have been able to afford each other in their civil concerns, but likewise with regard to the security they have thereby acquired against the insults and incursions of neighbouring Indians, or other enemies; you are therefore to lay out townships of a convenient size and extent in such places, as you in your discretion shall judge most proper. And it is our will and pleasure that each township do consist of about twenty thousand acres, having, as far as may be, natural boundaries extending up into the country, and comprehending a necessary part of the river of St. Lawrence, where it can be conveniently had.

46. You are also to cause a proper place in the most convenient part of each township to be marked out for building a town sufficient to contain such a number of families as you shall judge proper to settle there, with town and pasture lots convenient to each tenement, taking care that the said town be laid out upon, or as near as conveniently may be, to some navigable river, or the sea coast; and you are also to reserve to us proper quantities of land in each township for the following purposes, viz.:—for erecting fortifications and barracks where necessary, or for other military or naval services, and more particularly for the growth and production of naval timber, if there are any woodlands fit for that purpose.

47. And it is our further will and pleasure that a particular spot in or as near each town as possible, be set apart for the building of a church, and four hundred acres adjacent thereto allotted for the maintenance of a minister, and two hundred for a schoolmaster.

48. And you are to give strict orders to the surveyors, whom you shall employ to mark out the said townships and towns, to make returns to you of their surveys as soon as possible, with a particular description of each township, and the nature of the soil within the same.

49. And you are to oblige all such persons as shall be appointed to be surveyors of the said lands in each township, to take an oath for the due performance of their offices, and for obliging them to make exact surveys of all lands required to be set out.

50. And whereas nothing can more effectually tend to the speedy settling our said colony, the security of the property of our subjects, and the advancement of our revenue, than the disposing of such lands as are our property upon reasonable terms, and the establishing a regular and proper method of proceeding with respect to the passing of grants of such land; it is therefore our will and pleasure that all and every person and persons, who shall apply to you for any grant or grants of land, shall, previous to their obtaining the same, make it appear before you in council, that they are in a condition to cultivate and improve the same, by settling thereon, in proportion to the quantity of acres desired, a sufficient number of white persons and negroes; and in case you shall, upon a consideration of the circumstances of the person or persons applying for such grants, think it advisable to pass the same, in such case you are to cause a warrant to be drawn up, directed to the surveyor-general, or other proper officers, impowering him or them to make a faithful and exact survey of the lands so petitioned for, and to return the said warrant within six months at furthest from the date thereof, with a plot or description of the lands so surveyed thereunto annexed; provided that you do take care that before any such warrant is issued, as aforesaid, a docquet thereof be entered in the auditor's and register's office; and when the

warrant shall be returned by the said surveyor, or other proper officer, the grant shall be made out in due form, and the terms and conditions required by these our instructions be particularly and expressly mentioned in the respective grants. And it is our will and pleasure that the said grants shall be registered within six months from the date thereof, in the register's office there, and a docquet thereof be also entered in our auditor's office there, in case such establishment shall take place in our said province, or that, in default thereof, such grant shall be void, copies of all which entries shall be returned regularly, by the proper officer, to our commissioners of our treasury and to our Commissioners for Trade and Plantations, within six months from the date thereof.

51. And whereas great inconveniences have arisen in many of our colonies in America from the granting excessive quantities of land to particular persons, who have never cultivated or settled it, and have thereby prevented others more industrious from improving the same; in order therefore to prevent the like inconveniences for the future, you are to take especial care that in all grants to be made by you, by and with the advice and consent of our Council, to persons applying for the same, the quantity be in proportion to their ability to cultivate; and you are hereby directed to observe the following directions and regulations in all grants to be made by you, viz.:—

That one hundred acres of land be granted to every person being master or mistress of a family, for himself or herself, and fifty acres for every white or black man, woman, or child, of which such person's family shall consist, at the actual time of making the grant; and in case any person applying to you for grants of land shall be desirous of taking up a larger quantity than the actual number of persons in his or her family would entitle such persons to take up, it is our will and pleasure, and you are hereby

allowed and permitted to grant unto every such person or persons such further quantity of land as they may desire, not exceeding one thousand acres over and above what they are entitled to by the number of persons in their respective families, provided it shall appear to you that they are in a condition and intention to cultivate the same; and provided also that they do pay to the receiver of our quit-rents, or to such other officer as shall be appointed to receive the same, the sum of five shillings only for every fifty acres so granted, on the day of the date of the grant;

That all grantees be subject to the payment of two shillings sterling for every hundred acres, to commence at the expiration of two years from the date of such grant, and to be paid yearly and every year, or, in default of such payment, the grant is to be void;

That every grantee, upon giving proof that he or she has fulfilled the terms and conditions of his or her grant, shall be entitled to another grant, in the proportion and upon the conditions above-mentioned;

That for every fifty acres of land accounted plantable, each patentee shall be obliged, within three years after the date of his patent, to clear and work three acres at the least in that part of his tract which he shall judge most convenient and advantageous, or else to clear and drain three acres of swampy or sunken grounds, or drain three acres of marsh, if any such be within the bounds of his grant;

That for every fifty acres of land accounted barren, every patentee shall be obliged to put and keep on his land, within three years after the date of his grant, three neat cattle, which number he shall be obliged to continue on his land, until three acres for every fifty be fully cleared and improved;

That if any person shall take up a tract of land, wherein there shall be no part fit for present cultivation without manuring and improving the same, every such grantee shall

be obliged, within three years from the date of his grant, to erect on some part of his land one good dwelling-house, to contain at least 20 feet in length and 16 feet in breadth; and also to put on his land the like number of three neat cattle for every fifty acres;

That if any person, who shall take up any stony or rocky grounds not fit for planting or pasture, shall, within three years after the passing of his grant, begin to employ thereon, and so continue to work for three years then next ensuing, in digging any stone quarry or other mine, one good and able hand for every hundred acres of such tract, it shall be accounted a sufficient cultivation and improvement;

That every three acres which shall be cleared and worked as aforesaid, and every three acres which shall be cleared and drained as aforesaid, shall be accounted a sufficient seating, planting, cultivation, and improvement, to save for ever from forfeiture fifty acres of land in any part of the tract contained within the same patent; and the patentee shall be at liberty to withdraw his stock, or to forbear working in any quarry or mine, in proportion to such cultivation and improvement, as shall be made upon the plantable lands or upon the swamps, sunken grounds, and marshes, which shall be included in the same patent;

That when any person, who shall hereafter take up and patent any lands, shall have seated, planted, and cultivated, or improved the said land, or any part of it, according to the directions and conditions above-mentioned, such patentee may make proof of such seating, planting, cultivation, and improvement in the general court, or in the court of the county, district, or precinct, where such lands shall lie, and have such proof certified to the register's office, and there entered with the record of the said patent, a copy of which shall be admitted, on any trial, to prove the seating and planting of such land;

And lastly, in order to ascertain the true quantity of

plantable and barren land contained in each grant hereafter to be made within our said province, you are to take especial care that, in all surveys hereafter to be made, every surveyor be required and enjoyned to take particular notice, according to the best of his judgment and understanding, how much of the land so surveyed is plantable, and how much of it is barren and unfit for cultivation; and accordingly to insert in the survey and plot by him to be returned into the register's office, the true quantity of each kind of land.

52. And it is our further will and pleasure that, in all grants of land to be made by you, as aforesaid, regard be had to the profitable and unprofitable acres, so that each grantee may have a proportionable number of one sort and the other; as likewise that the breadth of each tract of land, to be hereafter granted, be one-third of the length of such tract; and that the length of each tract do not extend along the banks of any river, but into the main land, that thereby the said grantees may have each a convenient share of what accommodation the said river may afford for navigation or otherwise.

53. And whereas it hath been represented to us that many parts of the province under your government are particularly adapted to the growth and culture of hemp and flax, it is therefore our will and pleasure that, in all surveys of land for settlement, the surveyor be directed to report whether there is any, or what quantity of lands contained within such survey, fit for the production of hemp and flax; and you are to take particular care to insert a clause in every grant of land, where any part thereof is fit for such production, obliging the grantee annually to sow a proportionable part of his grant with hemp or flax seed.

54. And whereas it hath been further represented to us, that a great part of the country in the neighbourhood

of Lake Champlain, and between that lake and the river St. Lawrence, abounds with woods producing trees fit for masting for our royal navy, and other useful and necessary timber for naval construction; you are therefore expressly directed and required to cause such parts of the said country or any other within your government, that shall appear upon a survey to abound with such trees, and shall lie convenient for water carriage, to be reserved to us, and to use your utmost endeavour to prevent any waste being committed upon the said tracts, by punishing, in due course of law, any persons who shall cut down or destroy any trees growing thereon; and you are to consider and advise with our Council, whether some regulation that shall prevent any sawmills whatever from being erected within your government, without a license from you or the commander-in-chief of our said province for the time being, may not be a means of preventing all waste and destruction in such tracts of land as shall be reserved to us for the purposes aforesaid.

55. And whereas it appears from the representations of our governor of the district of Trois-Rivières, that the ironworks at St. Maurice in that district are of great consequence to our service; it is therefore our further will and pleasure that no part of the lands, upon which the said ironworks were carried on, or from which the ore used in such works was procured, or which shall appear to be necessary and convenient for that establishment, either in respect to a free passage to the river St. Lawrence, or for producing a necessary supply of wood, corn, and hay, or for pasture for cattle, be granted to any private person whatever; and also that as large a district of land as conveniently may be, adjacent to and lying round the said ironworks, over and above what may be necessary for the above purposes, be reserved for our use, to be disposed of in such manner as we shall hereafter direct and appoint.

56. And whereas it is necessary that all persons who may be desirous of settling in our said province, should be fully informed of the terms and conditions upon which lands will be granted in our said province; you are therefore, as soon as possible, to cause a publication to be made, by proclamation or otherwise, as you in your discretion shall think most advisable, of all and every the foregoing terms, conditions, and regulations of every kind, respecting the grants of lands; in which proclamation it may be expedient to add some short description of the natural advantages of the soil and climate, and its peculiar conveniences for trade and navigation; and you are to take such steps as you shall think proper for the publishing such proclamation in all the colonies of North America.

57. And it is our further will and pleasure that all the foregoing instructions to you, as well as any which you may hereafter receive, relative to the form and method of passing grants of lands, and the terms and conditions to be annexed to such grants, be entered upon record, with the grants themselves, for the information and satisfaction of all parties whatever that may be concerned therein.

58. And it is our further will and pleasure that you do consider of a proper and effectual method for collecting, receiving, and accounting for our quit-rents, whereby all frauds, concealment, irregularity, or neglect therein may be prevented, and whereby the receipts thereof may be effectually checked and controlled; and if it shall appear necessary to pass an act for the more effectually ascertaining and the more speedily and regularly collecting our quit-rents, you are to prepare the heads of such a bill as you shall think may most effectually conduce to the procuring the good ends proposed, and to transmit the same to our Commissioners for Trade and Plantations, in order to be laid before us for our further directions therein.

59. And it is our further will and pleasure that the

surveyor-general, or such other person or persons as you shall think proper to appoint, do, once in every year or oftener, as occasion shall require, inspect the state of all grants of lands made by you, and make report thereof to you in writing, specifying whether the conditions therein contained have or have not been complied with, or what progress has been made towards fulfilling the same; and you are annually to transmit copies of such reports to our Commissioners for Trade and Plantations. . . .

No. 62. Memorandum presented to Lieutenant-Governor Carleton by François Monnier, explaining the Methods whereby Seigniors obtained the Reunion of Lands to their Domains during the Old Régime [undated].[1]

Edicts and Ordinances relative to the Seigniorial Tenure, 288–289.

When an inhabitant or Canadian peasant, who had obtained from the seignior a grant of land in his seigniory, neglected to cultivate it, according to the conditions of his deed of concession, the seignior had a right to demand that it should be taken from him and reunited to his own domain. This was done under the authority of the intendant, without cost to the seignior; the seignior presenting a petition to the intendant, stating the default on the part of the inhabitant to cultivate the land that had been conceded to him, and praying the intendant, for that reason, to order the reunion of it to his domain.

Upon this the intendant sent an order to the inhabitant to fulfil the conditions of his deed within a delay of six months, eight months, one year, or any other stated time that the

[1] *Cf.* above, pp. 188–189.

intendant thought reasonable, under pain of seeing his land reunited to the domain of the seignior.

This order of the intendant had to be published during three consecutive Sundays, at the parish church of the seigniory, at the issue of divine service, and the delay, given to the inhabitant to fulfil the conditions of his deed, was counted from the last of these three publications. If at the expiration of the delay so granted to the inhabitant, by order of the intendant, the curate of the parish and the captain of militia certified to him that the land in question was still uncultivated, the intendant rendered a second decree by which he reunited the land to the domain of the seignior.

This custom was looked upon as being very useful to the province in general, and also to the seigniors, inasmuch as it greatly tended to increase the cultivation and establishment of the whole country.

No. 63. Extract from a Despatch of Governor Murray to Lord Shelburne concerning the Relations of the Seigniors to their Dependants, August 20, 1766.[1]

Canadian Archives, Series B, VIII. 2.

. . . The noblesse are seigneurs of the whole country and, though not rich, are in a situation, in that plentiful part of the world where money is scarce and luxury still unknown, to support their dignity. The inhabitants, their tenanciers, who pay only an annual quit-rent of about a dollar for one hundred acres, are at their ease and comfortable. They have been accustomed to respect and obey their noblesse, their tenures being military in the feudal manner. They have shared with them the dangers of the field, and natural affection has been

[1] *Cf.* above, p. 202.

increased in proportion to the calamities which have been common to both from the conquest of their country. As they have been taught to respect their superiors and are not yet intoxicated with the abuse of liberty, they are shocked at the insults which their noblesse and the King's officers have received from the English traders and lawyers since the civil government took place. . . . J. MURRAY.

No. 64. Opinions of three Eminent Lawyers of Paris, prepared at the Request of the Canadian Authorities, as to the Legality of certain Clauses and Conditions commonly inserted in Titles to Seigniorial Lands, February 14, 1767.

Edicts and Ordinances relative to the Seigniorial Tenure, 256–261.

THE undersigned counsel, who have seen the memorial submitted for their opinion touching the legality of various clauses contained in the patents or grants of land in Canada, emanating from His Majesty, and now subject to the dominion of His Britannic Majesty, are of opinion that they are called upon to consider, in the first place, what effects the patents in question would have had under the dominion of His Majesty the King of France; in the next place, to examine whether the transmission of the sovereign power to other hands has changed the principles upon which such decision must be based.

In some of these patents it is said: "On condition also of preserving and of causing his tenants to preserve the oak timber fit for the building of His Majesty's ships."

In more recent patents it is said: "In case His Majesty should hereafter require any portion of the said land for the purpose of building forts thereon, batteries, armouries, magazines, or other public works, he may take the same, as well

as the trees which may be necessary for the said public works, and fuel for the garrisons of the said forts, without being held to pay any indemnity."

In other patents, again, it is set forth: "His Majesty also reserves to himself the liberty of taking from the land so conceded the oak timber, timber for masts, and generally all the timber fit for use in the building and equipping of his ships, without being bound to pay any indemnity."

It is manifest that these patents, by their very discrepancies, exhibit a marked diversity in the right of His Majesty: some are more onerous to the grantees, others less; and in each case the rule contained in the deed of concession is to be observed.

The clause inserted in the first patents, obliging the grantee to preserve, and cause his tenants to preserve, the oak timber fit for the building of His Majesty's ships, by no means reserves to His Majesty a right of property in such timber:

1st, Because a grantor reserves to himself no more of the thing granted than he formally expresses his intention to reserve. He can lay claim to no more, and the concession is an actual transfer of title which conveys the whole property to the grantee, subject only to the conditions set forth in the deed of concession.

2nd, Because the special declaration made by His Majesty in other patents of concession, that he would not be bound to pay any indemnity for the timber which he might cause to be taken for building his ships, affords proof that such declaration on the part of His Majesty was thought necessary, in order to secure him a power so derogatory to the common law, as that of taking the property of a subject without paying him for it. Therefore, inasmuch as no declaration was made of this in the earlier patents, it is not possible to pretend that the King can have a right to take all or any portion of such timber without indemnity. The King treats with his subjects in this respect, only as an infeoffing seignior

and not as a sovereign. They must both be judged by the laws regulating contracts, laws which bind the monarch as well as his subjects; but if there could be any doubt as to the meaning of the clause, the fundamental principle in this matter is, that the decision must be in favour of the grantee, because it is he who is bound, and all laws require that we should invariably favour the party bound by such obligations.

The meaning of the clause in the earlier patents is, then, merely to subject the proprietors of oak timber to certain rules which are in force in France, in order to ensure to the King that he shall always, and in preference to all others, find in the woods belonging to his subjects such timber as he may require for building his ships and maintaining his navy.

It is in this spirit that the second article of the title concerning timber for the use of the royal houses and vessels, in the ordinance of Woods and Forests, enacts, "If, however, any pieces should be wanted of such length and thickness as are not to be met with at ordinary sales, in that case the grand master, upon estimates thereof, agreed upon in our Council and letters patent verified, may mark such trees in the least disadvantageous places in our forests, and cause them to be cut down, and if he should find none there, he shall cause them to be chosen and taken in the woods of our subjects, as well ecclesiastics as others, without distinction of rank, and on condition of paying the fair value thereof, which shall be estimated by skilled persons, to be agreed upon between our attorney in the rangership and the parties, before the grand master, who shall name them *ex officio*, in case of default or refusal."

The woods near the sea and navigable rivers are subject to a peculiar regulation, by reason of the need which the King may have of them for the building of vessels; and when any trees are marked with the stamp of the navy hammer, the owners cannot have those trees cut down, inasmuch as that is for-

bidden them on pain of forfeiture and of a fine of three thousand *livres*, by a decree of the Council, dated the 23rd July 1748.[1]

This is what the right of the King is reduced to in France; it is a right of preference and pre-emption over his subjects, for the service of his navy, or of his royal houses, but a right which is exercised only on payment of the fair value, according to the finding of arbitrators chosen on both sides, as might be done with private individuals: and moreover, we live under laws so just, and under sovereigns so beneficent, that we are enabled to say, that it would be contrary, both to their wish and to their lawful authority, to take the property of a subject in their names, without payment, under any pretext whatever of public necessity, of the service of the State, or otherwise, the payment of the price of what the King requires being always taken for granted, unless, we repeat, there be an express and positive obligation in the deed of alienation or concession which exempts him from so doing.

This obligation of the King became that of the King of England, when the sovereignty of Canada passed into his hands. The natural equity which protects property has continued to be, under that government, the first title of the concessions. The treaty of peace, which expressly reserves the rights of each subject, has become a second title much to be respected. In fine, the laws of England furnish the undersigned with a decision in point, to which also due respect must be rendered, and which makes for them. We find it in the excellent work of Mr. Blackstone, on the laws of England, in his introduction, section 4, in which he treats of the countries subject to the laws of England. He speaks of the colonies, and he distinguishes the colonies into national and conquered or ceded. The former are those founded by Englishmen, established by means of improvement and prior occupation, which have been, from the moment of their formation, subject

[1] Isambert, *Recueil général des anciennes lois françaises*, XXII., No. 640 (p. 220).

to the laws of England. "But in conquered or ceded countries that have already laws of their own, the King may indeed alter and change those laws; but till he does actually change them, the ancient laws of the country remain, unless such are against the laws of God, as in the case of an infidel country. Our American plantations are principally of this latter sort, being obtained in the last century, either by right of conquest or by treaties; and therefore the common law of England, as such, has no allowance or authority there, they being no part of the mother country, but distinct (though dependent) dominions. They are subject, however, to the control of Parliament, though (like Ireland, Man, and the rest) not bound by any act of Parliament unless particularly named."

According to these principles, the whole right of the King under the concessions in which the grantees have only been bound to reserve their oak trees, without its being expressed that no indemnity shall be due to them, is reduced to being able to take those oak trees for naval purposes, on payment of their value, according to the estimate of persons skilled in like matters. If the government does not take them, and it becomes indispensably necessary to cut them down for the purpose of preventing their decay, or for the use of the proprietor, the latter must present a petition to those who are entrusted with the exercise of the royal authority in this behalf, asking permission to do so; such should be the clause in his contract. If the King cannot take without paying for it, still less can the colonial authorities arbitrarily bestow it upon any one they please, and they cannot do so even with respect to the timber on lands in the concessions of which the King has inserted the clause not to indemnify, for so onerous a clause ought to be restricted to the precise case, and the right given by it can only be exercised with respect to timber really destined, and which shall be actually employed, for the King's ships. As to trees growing on the lands of vassals, if the seignior has expressly reserved to himself the right of

property in them, there is no doubt that the vassals can neither cut them nor sell them, because they form no part of the grant.

If the seignior has only reserved to himself a right of pre-emption, the vassals can sell them, on giving notice to the seignior in order that he may substitute himself in the place of the purchaser, if he thinks fit, as is the practice with us with respect to the feudal pre-emption (*retrait féodal*). So that this depends upon the terms of the contracts which have not been placed before us in the case submitted for our opinion.

The patent of concession contains also the following clause: "On condition of giving notice to His Majesty of mines and minerals, if any should be found in the said concession."

In the case submitted it is asked whether this clause is to be understood as constituting the King joint proprietor of the mines and minerals which may be found upon the property granted, or merely as shewing a desire, on the part of His Majesty, to be informed of their existence, in order to have it in his power to provide for the security of these treasures, and protect them from conquest, for the benefit of the State; and whether under any circumstance the King would not owe the grantee an indemnity, or be held to give him a considerable share in the profits of the mines; or whether the proprietor of the land is not, in virtue of his title to it, proprietor of the mines also, and whether companies could be formed, with privilege or otherwise, who could dispute his right.

The counsel answer that this question also ought to be decided by the laws of France, according to what has been said above. Now by the ordinance of Charles the Sixth of the 30th of May, 1413,[1] which is the most ancient law we have concerning this matter, "gold mines belong to the King, and

[1] Printed in full in Isambert's *Recueil général*, VII., No. 540 (pp. 386 ff.).

to him, and not to any other, belongs the tenth part of all metals when purified and refined, without being bound to pay anything, but only to protect the workmen." This ordinance styles private parties masters of the soil, and proprietor of the mines.

Charles the Tenth ordained an edict of the 26th May, 1563,[1] that the mortgagees of the domain could not pretend to any right over mines unless that right had been expressly mortgaged to them. Henry the Fourth, by an edict of the 9th of June, 1601, registered the 31st of July, 1603, after having ordained by the first article that a tenth part in kind free and clear, and attested on oath to be so, should be paid on all the said mines, excepted by the second article and exempted from the duty of a tenth, the mines of sulphur, saltpetre, iron, ochre, petroleum, coal, slate, plaster, chalk, and other sorts of stones for building and for making mill-stones.

A legislative decree of the Council has ordained in its first article, that in future no one should be at liberty to open or work mines of pit-coal without having obtained the permission of the controller-general of the exchequer, whether those who desired to work such mines were seigniors, having the superior jurisdiction, or proprietors of the land on which such mines were found. The eleventh article of the decree in question ordains, that those who will undertake the working of coal mines, in virtue of the permission they shall have obtained shall be obliged to indemnify the proprietors of the lands on which they shall open such mines, either by amicable arrangement or according to the estimate of *experts* or persons skilled in such matters, agreed upon between the parties; or in default thereof, appointed by the intendants and commissary *ex officio*. Sometimes the King grants patents to individuals to open and work mines, but generally the

[1] Isambert's *Recueil général*, XIV., No. 56 (p. 140).

patents set forth that they shall be opened by agreement with the proprietors, and upon payment of indemnity previously made to them.

Such is the public law of France with respect to mines, and such is the reason of the obligation to give notice to His Majesty of mines and minerals, not that the King may at once become the master of them, but that he may exercise over them, according to their nature, the rights arising from the laws of the kingdom.

Lastly, it is asked, what will be the effect of the following clauses contained in the grants made by the seigniors to their tenants: "The said tenants bind themselves to cultivate and improve their lands immediately, and to reside thereon at the latest within a year and a day from the date of these presents, and in case the said grantees shall fail to fulfil the conditions set forth in the said contract, it shall be lawful for the seignior to re-enter *ipso jure* into the possession of the said lands, without being bound to pay any indemnity for the labour which the said grantee may have performed thereon." It is asked whether the seignior cannot, by a simple publication of notice at the door of the parish church after high mass, re-enter *ipso jure* upon the lands, the conditions of the grants of which have not been fulfilled, whether he is not even the proprietor thereof *ipso facto*, and whether the grantee can return to the land afterwards and instal himself therein afresh.

The counsel answer, that it is much more regular, and also safer in many respects, notwithstanding the *ipso jure* clause, to send the tenant in default a summons to fulfil the conditions of his contract, serving him at the same time with a declaration to the effect that in case of his failing to do so by a given day, the seignior will, on that day, take possession of the land granted according to the terms of his contract, wherefore he summons him to appear, if he thinks fit, upon the premises, in order to be present at the said entry

into possession, and to see the report (*proces-verbal*) thereof drawn up. And in effect on the appointed day two notaries repair to the spot with the seignior, draw up a report of the state in which the land and premises are found, and of the things which may be found there belonging to the tenant, and re-establish the seignior in possession, without any one being able to accuse him of having embezzled or abstracted the effects of his vassal, and of having rather committed an invasion than performed an act of justice. If the tenant is absent, the notaries will draw up their instrument by default.

Deliberated at Paris the 14th February, 1767.

ELIE DE BEAUMONT.
TARGET.
ROUCHET.

We, the mayor and aldermen of the city of Paris, certify to all whom it may concern that Messrs. Elie de Beaumont, Rouchet, and Target, who have signed above, are advocates of the Parliament of Paris, and that faith is to be given to their signatures, judicially, as well as extra-judicially.

In witness whereof we have signed these presents, and have caused the seal of the city of Paris to be affixed thereto.

Given this twenty-fifth day of March, one thousand seven hundred and sixty-seven.

BEGUON.
LARSONNYER.
&c., &c.

No. 65. Despatch of Governor Carleton to the Earl of Shelburne[1] regarding the Administration of English Law in Canada, December 24, 1767.[2]

Canadian Archives, Series Q, V. pt. i. 316 ff.

My Lord,

To conceive the true state of the people of this province, so far as the laws and administration of justice are concerned, and the sensations they must feel in their present situation, 'tis necessary to recollect, they are not a migration of Britons, who brought with them the laws of England, but a populous and long-established colony, reduced by the King's arms to submit to his dominion *on certain conditions;* that their laws and customs were widely different from those of England, but founded on natural justice and equity, as well as these; that their honours, property, and profits, as well as the King's dues, in a great measure depended upon them; that on the mutation of lands by sale, some special cases excepted, they established fines to the King in lieu of quit-rents, and to the seigneur fines and dues as his chief profits, obliging him to grant his lands at very low rents.

This system of laws established subordination, from the first to the lowest, which preserved the internal harmony they enjoyed until our arrival, and secured obedience to the supreme seat of government from a very distant province; all this arrangement, in one hour, we overturned by the ordinance of the seventeenth of September, one thousand seven hundred and sixty-four;[3] and laws ill adapted to the

[1] The Earl of Shelburne was at this time secretary of state for the Southern Department, an administrative body which had charge of colonial relations.

[2] Printed in Shortt and Doughty's *Documents*, 201–203.

[3] This ordinance, which provided for the establishment of a new hierarchy of courts, may be found in *Ordinances made for the Province of Quebec by the*

genius of the Canadians, to the situation of the province, and to the interests of Great Britain, unknown and unpublished, were introduced in their stead; a sort of severity, if I remember right, never before practised by any conqueror, even where the people, without capitulation, submitted to his will and discretion.

How far this change of laws which deprives such numbers of their honours, privileges, profits, and property, is conformable to the capitulation of Montreal and Treaty of Paris; how far this ordinance, which affects the life, limb, liberty, and property of the subject, is within the limits of the power His Majesty has been pleased to grant to the governor and council; how far this ordinance, which, in a summary way, declares the Supreme Court of Judicature shall judge all cases, civil and criminal, by laws unknown and unpublished to the people, is agreeable to the natural rights of mankind, I humbly submit; this much is certain, that it cannot long remain in force without a general confusion and discontent.

To prevent some of the misfortunes that must accrue, the enclosed draft of an ordinance was prepared to be laid before the Council; but when I reflected on the many difficulties that would still remain, I thought it more advisable to leave those important matters as I found them, till His Majesty's pleasure was known thereon.

To show more fully the extent of these alterations, several months ago I directed an abridgment of the laws of Canada, in force on our arrival, to be drawn up, and at the same time desired the chief-justice and attorney-general to give me their opinion upon the mode at present in practice. This I thought absolutely necessary to show the true state of these matters,

Governor and Council since the Establishment of Civil Government (Quebec, 1767), 9. The substitution of English for French law, to which Carleton here refers, had taken place somewhat earlier, by the proclamation of October 7, 1763. This proclamation may be found in *A Collection of the Acts passed in the Parliament of Great Britain, and other Public Acts relative to Canada*, 1759–1834 (Quebec, 1824–1834), 27 ff.

holding it of great importance to the King's service that all cause of great or general discontent should be removed and prevented.

A few disputes have already appeared, where the English law gives to one what, by the Canadian, would belong to another; a case of this sort, not easy to determine, lies at present in chancery; if decided for the Canadian on the principle that promulgation is necessary to give force to laws, the uniformity of the courts of justice thereby will be still further destroyed, chancery reversing the judgments of the superior court, as that court reverses those of the common pleas; the people notwithstanding continue to regulate their transactions by their ancient laws, though unknown and unauthorised in the Supreme Court, where most of these transactions would be declared invalid. So short-sighted are men that although these few instances manifest the difference of the old and new laws, and give some uneasiness to the parties, yet I have met with only one Canadian who sees this great revolution in its full influence; but when time brings forth events, which shall make known to the Canadians that their modes of inheritance are totally changed, and other alterations which affect the property and interests of every family in the province, the consternation must become general.

The present great and universal complaint arises from the delay and heavy expenses of justice; formerly the King's courts sat once a week at Quebec, Montreal, and Three Rivers; from these lay an appeal to the Council, which also sat once a week, where fees of all sorts were very low, and the decisions immediate. At present the courts sit three times a year at Quebec, and twice a year at Montreal, and have introduced all the chicanery of Westminster Hall into this impoverished province, where few fortunes can bear the expense and delay of a lawsuit. The people are thereby deprived of the benefit of the King's courts of justice, which rather prove oppressive and ruinous than a relief to the

injured ; this, with the weight of fees in general, is the daily complaint, not but a great deal might be said of the inferior administrators of justice, very few of whom have received the education requisite for their office, and are not endowed with all the moderation, impartiality, and disinterestedness that were to be wished.

The most advisable method in my opinion for removing the present as well as for preventing future evils, is to repeal that ordinance as null and void in its own nature, and for the present leave the Canadian laws almost entire; such alterations might be afterwards made in them, as time and occurrences rendered the same advisable, so as to reduce them to that system His Majesty should think fit, without risking the dangers of too much precipitation ; or else, such alterations might be made in the old, and those new laws judged necessary to be immediately introduced, and publish the whole as a Canadian code, as was practised by Edward the First after the conquest of Wales.

For a more expeditious and easy administration of justice, a judge should reside at each of the three towns of Quebec, Montreal, and Three Rivers, with a Canadian assistant, to sit at least once a month ; it seems to me no less essential that none of the principal officers of government and justice, neither governor, judge, secretary, provost-marshal, or clerk of the Council, should receive fee, reward, or present from the people, on pain of the King's displeasure, though an equivalent should be allowed them by way of salary, and that the inferior officers be restrained to the fees authorised under the French government, in order to remove the present reproach, that our English justice and English offices are calculated to drain the people of the little substance they have left, as well as to serve as a barrier, to secure the King's interests at this distance from the throne, from the pestilential dangers of avarice and corruption for ages to come.

What salaries may be necessary to induce gentlemen of

the law, of integrity and abilities, with a knowledge of the French language, to come into this country, I cannot tell; such characters, however, are more indispensably necessary in this than in any other of the King's provinces; for, here, every fault and error of the man becomes a national reproach. But men of the stamp of our present chief-justice and attorney-general not being always to be met with, if unexceptionable characters, such as above described, cannot be procured it will be better for the province to be satisfied with any men of sound sense and probity it can afford, who, with good intentions and the advice and assistance of these two gentlemen, may prove of more service than an ignorant, greedy, and factious set.

I could almost venture to promise that in a little time the provincial duties may pay all the officers necessary for government and the administration of justice, on the footing I propose, of procuring persons properly qualified without fees, together with all necessary extraordinary expenses (I except, however, sinecure salaries and all public works) without giving the least discontent. The Canadians in general, particularly the gentlemen, greatly disapprove of the verdict given last year against the Crown, on the trial for the duties, and both Canadian and English merchants, the colonists excepted, would have fixed the rates in the scheme I enclosed to Your Lordship in my letter higher than I thought judicious for the first essay. These things I thought proper to mention at present, lest the economy, necessary at home, might be an objection to the arrangements essential to the King's service and the interests of Great Britain.—I am, &c.

GUY CARLETON.

To the Earl of Shelburne, one of His Majesty's
Principal Secretaries of State, &c., &c., &c.

No. 66. Draft of "An Ordinance for continuing and confirming the Laws and Customs that prevailed in this Province in the Time of the French Government, concerning the Tenure, Inheritance, and Alienation of Lands," December 24, 1767.

Canadian Archives, Series Q, V. pt. i. 323.

WHEREAS, from the extensive words used in the great ordinance of this province, dated the 17th day of September, in the year of our Lord, 1764, intituled, "An Ordinance for regulating and establishing the courts of judicature, justices of the peace, quarter-sessions, bailiffs, and other matters relative to the distribution of justice in this province," by which the two principal courts of judicature, erected thereby in this province, are empowered and directed, the one of them to hear and determine all criminal and civil causes, agreeable to the laws of England and to the ordinances of this province, and the other to determine matters of property above the value of ten pounds agreeable to equity, having regard nevertheless to the laws of England, and an appeal is allowed from this latter court in cases wherein the matter in contest is of the value of twenty pounds and upwards, to the former court, which is strictly enjoined to proceed according to the laws of England and the ordinances of this province as aforesaid;

Certain doubts have arisen, and may arise, that in consequence thereof, the rules of inheritance of lands and houses in this province, and the terms and conditions of the tenures thereof, and the rights, privileges, profits, and emoluments thence arising either to the King's Most Excellent Majesty, or to divers of his said Majesty's subjects, that are owners of lands in the said province, were in the whole or in part

abolished, and the laws and customs of England, relating to the said points, at once introduced in their stead;

Which great and sudden alteration of the laws concerning these important subjects would not only be in no wise useful to the said province, but by unsettling men's ancient and accustomed rights and reasonable expectations founded thereon, would be attended with innumerable hardships and inconveniences to the inhabitants thereof, and produce a general confusion. In order therefore to prevent these evils, and to quiet the minds of the inhabitants with respect to them:

It is ordained and declared by the lieutenant-governor of this province, by and with the advice and consent of the Council of the same, that all laws and customs that prevailed in this province in the time of the French government, at or immediately before the time of the conquest thereof by the arms of Great Britain, concerning the following points: to wit, concerning the tenures of lands in this province, both such as were held immediately of the Crown, and such as were held of subjects, and the terms and conditions of such tenures; and concerning the rights, privileges, and pre-eminences annexed to any of the said tenures, and the burthens, duties, and obligations to which they were subject; and concerning the inheritance and succession to the said lands upon the death of any of the proprietors thereof, and concerning the forfeiture, confiscation, re-annexing, or re-uniting to the demesne of the lord, escheat, reversion, or other devolution whatsoever of any of the said lands, either to the King's Majesty or any of His Majesty's subjects of whom they are held; and concerning the power of devising or bequeathing any of the said lands by a last will and testament, and concerning the power of alienating the same by the proprietors thereof in their lifetime; and concerning the power of limiting, hypothecating, mortgaging, or any way encumbering or affecting any lands in the said province, shall continue in full force and vigour until they are changed in

some of these particulars by ordinances made for that purpose, and expressly mentioning such changes, and setting forth in a full and distinct manner the laws introduced in the stead of those which shall be so changed or abolished, to the end that all the inhabitants of this province, Canadians as well as English, may fully understand and be made acquainted with the said new laws that shall be so introduced; any laws, customs, or usages of England, or any ordinances of this province, to the contrary hereof in anywise notwithstanding.

Also the said French laws and customs, hereby continued and confirmed, shall be deemed and taken to have continued without interruption, from the time of the conquest of this country by the British arms to the present time; any former ordinance or ordinances of this province to the contrary thereof in anywise notwithstanding.

And further, this ordinance shall extend not only to all lands in this province held immediately of the Crown, by grants made by the French King before the conquest of this country, and to all lands held under the immediate tenants of the Crown, who are commonly called seigneurs, by grants made by the said seigneurs to inferior tenants or vassals before the said conquest, but likewise to such lands as have been granted by the said seigneurs to the said inferior tenants since the said conquest, and likewise to all such lands as shall be granted hereafter by the said seigneurs to the said inferior tenants or vassals; all which said grants from the said seigniors to the said inferior tenants, or vassals, both those that shall hereafter be made, and those that have been made already, shall be subject to the same rules, restrictions, and conditions as were lawfully in force concerning them in the time of the French government, at or immediately before the time of the said conquest of this province by the British arms. But this ordinance shall not extend to or any way affect any new grants of land in this province, made by the King's Majesty since the said conquest, or hereafter to be made by his said Majesty;

but the laws and rules relating to such royal grants shall be the same as if this ordinance had not been made.

Given by the Honourable Guy Carleton, lieutenant-governor and commander-in-chief of the province of Quebec, brigadier-general of His Majesty's forces, &c., &c., in Council, at the Castle of St. Lewis, in the city of Quebec, the day of in the year of His Majesty's reign, and in the year of our Lord, 176 .

No. 67. Despatch of Governor Carleton to the Secretary of State, giving a short Outline of the Seigniorial System, April 12, 1768.[1]

Canadian Archives, Series Q, V. pt. ii. 477 ff.

My Lord,

Again I find myself under a necessity to repeat very near the same apologies as in my last about the fees; the truth is, that while offices are farmed out to the best bidder, tenants will make the most of their leases, and in their turn hire such servants as work at the cheapest rate, without much inquiry whether the same is well or ill done; the enclosed list of grants prior to the conquest of the country has been greatly retarded, from the persons employed therein not being thoroughly versed in the languages; at the same time it must be fairly acknowledged, the ancient records of the country are by no means so clear and accurate as one could wish; however, it will in general tolerably well exhibit on what terms the seigniorial grants are held, for as to the *terres en roture* held immediately of the King, in the towns of Quebec or Trois-Rivières or elsewhere, the same is not yet completed, but is in

[1] Printed in Shortt and Doughty's *Documents*, 208–210.

hand and shall be transmitted without loss of time as soon as finished.

Some of the privileges contained in those grants appear at first to convey dangerous powers into the hands of the seigneurs, that, upon a more minute inquiry, are found to be really little else than ideal; the *haute, moyenne et basse justice* are terms of high import, but even under the French government were so corrected as to prove of little signification to the proprietors, for besides that they could appoint no judge without the approbation of government, there lay an appeal from all the private to the royal jurisdictions in every matter exceeding half a crown; it could not therefore be productive of abuse, and as the keeping of their own judges became much too burthensome for the scanty incomes of the Canadian seigneurs, it was grown into so general a disuse, there were hardly three of them in the whole province at the time of the conquest.[1]

All the lands here are held of His Majesty's Castle of St. Lewis, and nothing, I am persuaded, would be so agreeable to the people, or tend more to securing the allegiance of the new subjects to His Majesty, as well as ensuring the payment of those fines and dues, which here stand in the lieu of quit-rents, than a formal requisition of all those immediately holding of the King, to pay faith and homage to him at his Castle of St. Lewis. The oath which the vassals take upon the occasion is very solemn and binding; they are obliged to furnish what they here term their *aveu et dénombrement*, which is an exact account of their tenants and revenues, and to discharge whatever they owe their sovereign, and to appear in arms for his defence in case his province is ever attacked. And at the same time that it would prove a confirmation to the people of their estates and immunities, after which they most ardently sigh, it might be a means to recall

[1] See below, pp. 270–271.

out of the French service such as have yet possessions in this country, or at least oblige them to dispose of their effects here; and although it may not be possible, at least for a time, entirely to prevent that intercourse, every measure that can tend towards putting an end to it must be useful.

The Canadian tenures differ, it is true, from those in the other parts of His Majesty's American dominions, but if confirmed (and I cannot see how it well can be avoided without entirely oversetting the properties of the people) will ever secure a proper subordination from this province to Great Britain; if its detached situation be constantly remembered, and that on the Canadian stock we can only depend for an increase of population therein, the policy of continuing to them their customs and usages will be sufficiently evinced.

For the foregoing reasons it has occurred to His Majesty's servants here that it might prove of advantage, if whatever lands remain vacant in the interior parts of the province bordering upon those where the old customs prevail, were henceforth granted on the like conditions, taking care that those at Gaspey and Chaleur Bay, where the King's old subjects ought chiefly to be encouraged to settle, were granted on such conditions only as are required by his royal instructions; and upon this consideration have some grants in the interior parts been deferred carrying into execution until I could receive the sense of government thereupon.

Your Lordship may have perceived by some of my former letters, that long before His Majesty's order in council of the 28th of August came to my hands, the matter therein recommended had been the object of my most serious consideration; the receipt of that order has induced me to alter some part of the plan I at first proposed to myself, and have accordingly directed the abridgment mentioned to Your Lordship in my letter of 24th December,[1] and undertaken by some of the

[1] Printed above, pp. 227–231.

ablest men in the province, to be further extended and rendered more full and copious, and to comprise all the laws in force at the conquest; in the meantime, to give Your Lordship and His Majesty's other servants some idea of the nature of them, I herewith transmit to Your Lordship a short sketch exhibiting only the heads of those laws; the several matters recommended by that order to the King's servants here, shall be prepared with all the despatch that the importance as well as extent of the subject can possibly admit of.—

I am, &c., GUY CARLETON.

To the Earl of Shelburne, &c.

No. 68. Report of the Council for Trade[1] to the King recommending the Issue of new Instructions in regard to the Granting of Land in Canada, April 24, 1771.

Public Record Office, Board of Trade, Canada, XVI. 162.

To the King's Most Excellent Majesty.

MAY it please Your Majesty,

Guy Carleton, Esquire, Your Majesty's governor of Quebec, has represented to us, that the terms and conditions under which he is by his instructions directed to make grants of lands in that province, have not answered Your Majesty's royal intentions; and that it would be far more advantageous, if the antient mode of granting lands, which prevailed

[1] The Council for Trade (more commonly known as the Board of Trade) was established in 1696, and was given a general oversight of colonial trade and kindred matters. It continued in existence until 1782, when it was abolished by the provisions of "Burke's Act." The Council for Trade played an important part in directing the royal policy toward the various colonial possessions, and was invariably consulted whenever any change of economic conditions was contemplated. Lord Hillsborough was at this time president of the Council. The work of the Council for Trade is discussed at length in H. E. Egerton's *Short History of British Colonial Policy* (London, 1897).

under the French government before the conquest, was to be now adopted.

This proposition of Your Majesty's governor, in a matter of great importance to the future welfare and prosperity of the colony of Quebec, certainly deserves the most serious attention; and as it appears to us, upon the best information we are able to obtain of the antient usage and practice of granting lands in that colony, that it was well calculated to promote settlement upon terms of publick advantage; and as it is also apparent, that the introducing different tenures of land in the same colony leads to inconvenience and confusion, we cannot but agree in opinion with Your Majesty's governor as to the utility of the proposal, and beg leave humbly to recommend, that those articles of Your Majesty's instructions to your said governor, which relate to the granting lands, should be revoked; and that the governor should be authorized to grant, with the advice of his council, the lands remaining, subject to Your Majesty's disposal, in fief and seigneurie, as hath been practised heretofore, omitting in such grants *haute*, *moyenne et basse justice*, the exercise whereof hath been long disused in that colony.

Which is most humbly submitted.

HILLSBOROUGH.
SOAME JENYNS.
JOHN ROBERTS.
WM. FITZHERBERT.
GREVILLE.
THOMAS WHATELY.

WHITEHALL, *April* 24, 1771.

No. 69. Royal Instructions to Governor Carleton permitting the Governor-in-Council to make further Grants of Land under the Seigniorial Tenure, July 2, 1771.

Canadian Archives, Series M, CCXXX. 114.

WHEREAS it hath been represented unto us that the terms and conditions under which you are, by our royal instructions to you, authorised and directed to make grants of lands within our province of Quebec under your government, have been found to be inconvenient and inadequate; and that it would be more for our advantage, and for the benefit of our subjects inhabiting in, and resorting to our said province, if the ancient mode of granting lands which prevailed under the French government before the conquest and cession of the same province was to be adopted; we therefore, taking the same into our royal consideration, and being desirous to promote, as far as in us lies, the welfare and prosperity of our said province, have thought fit to revoke and do hereby revoke and annul all such parts of our said instructions to you; and every clause, matter, and thing therein, which contain any powers or directions in respect to the granting of lands within our said province; and it is our will and pleasure and you are hereby authorised and empowered to grant, with the advice of the Council of our said province, the lands which remain subject to our disposal, in fief or seigneurie, as hath been practised heretofore, antecedent to the conquest thereof; omitting, however, in such grants so to be made by you, the reservation of the exercise of such judicial powers as hath been long disused within our said province. And it is our further will and pleasure that all grants in fief and seigneurie, so

to be passed by you, as aforesaid, be made subject to our royal ratification, and also be registered within our said province, in like manner as was practised in regard to grants held in fief and seigneurie under the French government.

No. 70. A Contemporary Account of the Disorders connected with the Attempt to enforce the Feudal Obligation of Military Service in the Province of Quebec during the American Invasion of 1775.[1]

Francis Masères, *Additional Papers concerning the Province of Quebeck*, 71–78.

A Narrative of the tumultuous conduct of the Freeholders of divers seigniories in the Province of Quebeck in the summer of the year 1775, in opposition to the endeavours used by their Seigniors to call them out to take arms against the American Army that had invaded the province: shewing their aversion to being commanded by their Seigniors, and the little influence their Seigniors and the other Noblesse of Canada have over them. (Written by a gentleman very lately arrived from Quebeck.)

An opinion prevails in the province of Quebeck (whether just or not I will not pretend to determine) that the seigniors

[1] This interesting document is printed because it sets forth, in very plain terms, what is alleged to have been the general attitude of the censitaires toward Governor Carleton's endeavour, through the seigniors, to enforce the seigniorial obligation of military service. While there can be no reasonable doubt that the attempt was resented by the inhabitants in several sections of the province, the statements contained in this document ought to be accepted only with a great deal of reservation. It contains, in fact, some very palpable exaggerations. The writer of the document was endeavouring to support his point that the provisions of the Quebec Act were obnoxious to the rank and file of the population, and that the act had been passed at the instigation of the seigniors, who did not in any sense represent the wishes of their dependants, and who had, since the conquest, become entirely discredited with them.

owe military service to their sovereign, by the tenure of their lands; and that in the acts of (*foi et hommage*, or) fealty and homage, they promise to perform the same to the Crown when called upon: And that, by the same act, they also engage for the personal service of all their vassals, and other tenants, who hold their lands from them, either *par foi et hommage*, or *par cens et rente*, or (as it is often expressed) *en roture*. It is universally believed that the seigniors have, by the customs of Canada (which are revived by the late Quebeck Act), a legal right to command the personal service of all the holders of land under them, whenever the sovereign, or his representative, calls upon them (the seigniors) for that purpose: And the government has thrown out hints that those inhabitants who refused to obey their seigniors last summer, when called upon to oppose the provincials, have, by such refusal, forfeited all title to their lands, which ought, on that account, to revert to the seigniors: And that, as soon as things shall be settled in the province, suits of law should be instituted, in the courts of justice, to dispossess them. The inhabitants themselves acquiesce in the truth of this doctrine, but they are determined to hold possession of their lands by force.

Mr. La Corne, a young man of about twenty-two years of age, and nephew to Mr. La Corne de Saint Luc, was sent by General Carleton to raise the inhabitants of Terrebonne, a village of which he (the younger Mr. La Corne) is seignior. He addressed them in a very high tone, mentioning the above right which he had, by the tenure of their lands, to command their military service. They answered, "that they were now become subjects of England, and did not look upon themselves as Frenchmen in any respect whatever." Mr. La Corne was imprudent enough to strike some of those who spoke loudest. This provoked the people to such a degree that Mr. La Corne found it necessary

to get away from them, and go back immediately to Montreal, but threatened to return speedily amongst them with a party of two hundred soldiers, who would make them dearly pay for their refusal to obey him. The people, hearing this, forthwith armed themselves, some with guns, others with clubs; and they all resolved to die rather than submit to be commanded by their seignior. General Carleton, hearing of the disturbance that Mr. La Corne's behaviour had occasioned, instead of complying with his desire of sending troops to enforce obedience to his authority, thought it advisable to send with him an English officer of merit, Captain Hamilton (late of the 15th regiment, and now lieutenant-governor of Detroit), to pacify the people. Captain Hamilton asked them what they meant by assembling in that riotous, disorderly manner? They answered, that their intentions were to defend themselves from the soldiers, with whom they were threatened by Mr. La Corne, their seignior. "If General Carleton," said they, "requires our services, let him give us Englishmen to command us; such a man as you, for instance, we would follow to the world's end." "But," replied Mr. Hamilton, "English military gentlemen are not to be found in sufficient numbers in the province to take the command of you." "Then," said they, "give us common soldiers to lead us, rather than those people. For we will not be commanded by *ce petit gars*, that is (literally, by that little boy, but, in their sense of it), by that insignificant, raw, young man." At last, upon Captain Hamilton's promise, that their seignior should come no more among them, they dispersed. Whether or not those people would have kept their word and followed English leaders is uncertain, because General Carleton has never thought proper to make the experiment.

This behaviour of those people is the more remarkable because Mr. La Corne is a very pretty young man in his person and appearance, and not despicable in point of under-

standing, and not less than three-and-twenty years old; so that nothing but his quality of seignior, and the odious powers which they suppose to be connected with that character, can have rendered him disagreeable to the people.

Mr. Deschambaud, the son (an officer at this time in the service and pay of the King of France, who is absent from his regiment upon leave), went over to a seigniory belonging to his father, situated on the river Richelieu, and began to harangue the inhabitants of the seigniory, much in the same style that Mr. La Corne had used at Terrebonne. Like consequences ensued. The people were exasperated at his treatment of them. They replied with sharpness. He drew his sword: they surrounded him and beat him severely. He returned to Montreal, and complained of them to General Carleton. The next day Mr. Deschambaud, the father, went over and told the people that the governor was highly displeased at the treatment his son had received from them; but that all would be forgiven if they would repair to Montreal and ask his (young Deschambaud's) pardon; otherwise they might expect to be severely punished for their behaviour.

This speech served only to provoke them still more: they armed themselves immediately, and went to the traders on the river Richelieu, and purchased all the ammunition they had in their stores, paying so great a price as five shillings for a pound of powder, which is usually sold for less than a third part of that sum. They assembled to the number of near 3000[1] at Fort Chambly; and began to march towards Fort St. John's, to face the two regiments of regulars that were in garrison there; that being the force which, they imagined, General Carleton would employ against them. But he, upon notice of their proceedings, sent an English officer to disavow the message delivered to them by Mr.

[1] This, for example, is one of the statements which may well give rise to a reasonable doubt as to the accuracy of the writer.

Deschambaud, the father, and to acquaint them, that all would be well if they would disperse and retire each to his home. This was immediately complied with.

Mr. Cuthbert, an English gentleman, who is proprietor of an extensive and valuable seigniory, called Berthier,[1] summoned the inhabitants of his seigniory to assemble at his house. They sent him for answer that, if he had anything to communicate, he might come to them; and they accordingly assembled at a place where three roads meet, and where there is a cross erected. Mr. Cuthbert came thither to them, and made a peremptory demand of their services on the French system, as being their seignior. They told him if that was his business with them he had best retire to his own home and trouble them no more, for that not a man of them would follow him. And as soon as he was gone, they all made oath on the cross, round which they were assembled, that they never would take arms against the provincials: That, if one among them offered to join [the] government, they would directly burn his house and his barn and destroy his cattle: And that, if General Carleton should attempt to compel them into service, they would repel force by force. And, having thus sworn, they went home. This happened in the latter end of July or the beginning of August. Afterwards, (I think) about the end of September, Mr. Lanaudière, the son (who is owner of a seigniory at another place called Saint Anne's),[2] came to them from Montreal, and said that he was employed by General Carleton to lead them against the provincials; that he was going at that time to his estate at St. Anne's, but should return to Berthier in a few days, when he expected that they should be prepared to follow him; otherwise, he assured them,

[1] James Cuthbert had purchased the fief of Berthier-en-Haut from Pierre-Noël Courthiau in 1765 (*Actes de Foi et Hommage*, III. 446).

[2] Sainte-Anne de la Pérade. This seigniory had been in the possession of the Lanaudières for over a century.

that their lands and houses should be burnt and laid waste. He accordingly did return to Berthier some days after; and, on entering the limits of the parish, he and Mr. Tonnancour, the son, with sixteen others, their attendants, were surrounded and made prisoners by the inhabitants. Warm debates ensued amongst them whether or not they should send Mr. Lanaudière to the provincial camp near St. John's. It was, at length, agreed to set him and his friends at liberty, on his promise to obtain for them General Carleton's pardon for this outrage, and on his further promise never to come again amongst them on a like errand. . .

No. 71. Proclamation of Governor Carleton calling upon the Seigniors to render their Fealty and Homage, August 28, 1777.

Canadian Archives, Series M, CCLXXII. 37.

By His Excellency Sir Guy Carleton, Knight of the Most Honourable Order of the Bath, Captain-General and Governor-in-Chief of the Province of Quebec and the territories thereon depending in North America, Vice-Admiral and Keeper of the Great Seal thereof, &c., &c., &c., General and Commander-in-Chief of His Majesty's Forces in the said Province and the Frontiers thereof, &c., &c., &c.

A Proclamation.

His Majesty's service, together with the interest and security of his faithful subjects in this province, requiring that His Majesty's rights touching his demesne should be ascertained; and it being necessary for that purpose to make out a terrier of the seigniories held immediately from the Crown, as well as of the lands, tenements, and hereditaments held

therefrom *en roture*, I have thought proper by the advice of His Majesty's Council in this province to issue this proclamation requiring all proprietors of seigniories in this province holding directly from the Crown (as well communities as others) to appear in person or by attorneys duly constituted for that purpose, at the Castle of Saint Lewis in the City of Quebec, any time before the first day of December, which will be in the year of Our Lord 1778, to make and render before me there the fealty and homage which they owe to His Majesty according to the ancient laws, customs, and usages of this province. Authenticated copies of the deeds will be given them gratis.

The said proprietors of seigniories are also required to give in their respective terriers or land rolls at the same time or within forty days after rendering their fealty and homage, to be registered. Authenticated copies thereof will also be given them gratis.

Moreover, all persons holding lands *en roture* from the Crown are required to appear before the time above mentioned, in their proper persons, or by attorneys duly constituted for that purpose, at the city of Quebec, to exhibit their title-deeds and to make a declaration of the estates they hold under His Majesty, and the rents and duties they owe thereupon.

Given under my hand and seal-at-arms, at the Castle of Saint Lewis, in the city of Quebec, the twenty-eighth day of August 1777, in the seventeenth year of His Majesty's reign. GUY CARLETON.

God Save the King.

No. 72. Despatch of Governor Haldimand[1] to the Secretary of State concerning various Seigniorial Incidents, July 6, 1781.

Canadian Archives, Series B, LV. 54 ff.

My Lord,

. . . Sir Guy Carleton had thought proper to require, by proclamation, a performance of the fealty and homage due to His Majesty from the proprietors of seigneuries at the expiration of the year 1777,[2] and had, previous to my arrival in the province, by a subsequent proclamation, prolonged the delay till the 31st of December 1778. Perhaps it would have been better not to have taken up that business during the war, but as it had been agitated, I had reason to think that the not insisting upon it might tend to lessen the king's authority amongst an ignorant people, many of whom might think that ceremony necessary before their allegiance could be changed from the King of France. I have received the fealty and homage, and the register of the *acte de foi et hommage* may be useful in giving a short and clear view of conditions upon which the different seigneuries have been granted.

A difficulty was stated by the attorney-general, relative to the religious communities, and particularly the Seminary,[3] the richest of them, and who have been the most useful and the most zealous for government upon many occasions. I thought it right to admit them to the performance of fealty and homage, as well as the other religious communities, that of the

[1] Major-General Sir Frederick Haldimand, governor of Canada from June 27, 1778, to April 22, 1786. His voluminous collection of letters and papers, now known as the Haldimand Collection, throws much light upon the condition of affairs in Canada during his term of office.

[2] Printed above, pp. 246–247.

[3] The Seminary of St. Sulpice at Montreal.

Jesuits excepted.[1] They presented their titles, and offered *foi et hommage*. I have returned their titles, and allow them to enjoy their estates in the same manner which His Majesty has hitherto permitted. In consideration of their poverty and their usefulness, in taking care of the sick and infirm, and in the education of youth, I have remitted to the nuns of the General Hospitals, and to those of the order of St. Ursule, the quint and other rights which were due to the King.

In my letter of the 25th October last, I transmitted to Your Lordship an account of part of the moneys in the hands of the receiver-general and his agents, arising from the *quints*, *lods et ventes* and *rente* of domain belonging to the King, and proposed that the purchase of the King's house at Montreal, that of the seigneurie of Sorel,[2] and of some ground necessary for the fortifications of Quebec, should be defrayed from it. The repairs of the King's houses at Quebec and Montreal, and such charities to indigent people of birth as become the royal munificence to bestow, may be paid from the same fund.

I beg that Your Lordship will take that matter into consideration, and acquaint me with His Majesty's determination on that head.—I have, &c.,

FRED. HALDIMAND.

[1] The religious order known as the Reverend Fathers of the Society and Company of Jesus had been suppressed by Pope Clement XIX. in 1773, and from this date the legal ownership of the Jesuits' lands in Canada vested in the crown. Those who had been members of the order were, however, supported out of the revenues of the lands during the remainder of their lives.

[2] *Cf.* above, p. 116, note 1.

No. 73. Report of the Solicitor-General upon various Questions relating to the Seigniorial System, October 5, 1790.[1]

Canadian Archives, Series Q, XLVIII. pt. i. 33 ff.

To the Honourable Members of the Council.

May it please Your Honours,

Anxious to contribute all the information in my power to the Honourable Board of Council upon the subject of the letter I received from His Honour the President on the 31st of August last, enclosing several important questions relating to the tenures of estates in this country, and suggesting the idea of converting the same into free and common socage; I submit the following answers to those questions for the consideration of the Board. It is fit I should inform the Honourable Board that the present dangerous state of health of the attorney-general has defeated our intention of making a joint report, and I may

[1] After the close of the Revolutionary War in 1783 a large number of United Empire Loyalists made their way into what are now known as the "Eastern Townships" of Quebec, and there received grants of land under the English form of tenure. This circumstance seems to have created an impression, even among the French population, that the new tenure was preferable to the old, with the result that petitions began to be presented to the authorities asking for commutations of the tenures of seigniories. One of these petitions came to the Council from Charles de Lanaudière, one of its own members, who prayed that the tenure of his seigniory "be converted from tenure in fief to tenure in free and common socage." The Council, in due course, took up this petition, but, before deciding either to grant or to refuse it, desired to possess itself of full information regarding the incidents of both forms of tenure. To this end a series of eleven questions was drawn up, and these questions were submitted to the law officers of the crown for a joint report. Owing to the illness of the attorney-general, however, the entire work fell upon the solicitor-general, the Honourable J. Williams. Although his report bears evidence of the haste with which it was prepared, the answers, except in one or two instances, are reasonably accurate, and taken together give a good outline of the legal bases upon which the seigniorial system rested. A copy of the report is printed in *Titles and Documents relating to the Seigniorial Tenure* (2 vols., Quebec, 1852–1854), I. 27–35.

urge with truth that the daily avocations of my other public department have greatly impeded my deliberations on the present subject; but as expedition may be wished and expected, I shall state my answers concisely, but I hope with a degree of precision.

Question 1.—"Upon what tenures were the lands of this country granted by the French Crown?"

The civil constitution of Canada was established upon the feudal system; large tracts of land were granted by the French Crown *en fief et seigneurie;* these estates are styled *biens nobles;* small parcels and town lots were granted by an ignoble tenure, called *roture.*

There are some, a very few, allodial grants; the tenure is termed *franc aleu noble* and *franc aleu roturier;* a fewer still by that tenure which is of a spiritual nature called *pure aumône*, or frankalmoign.[1]

Question 2.—"What kind of tenure was most prevalent and what may be stated in probable conjecture for the proportion between them?"

In the country, the tenure *en fief et seigneurie* was almost universal. In the town of Quebec, several small parcels were granted upon the same tenure; and there, as well as at Three Rivers and adjoining to the forts of Crown Point, Detroit, &c., small parcels or lots were granted *en roture.*[2]

[1] During the old régime, lands had been granted under six different forms of tenure. Three of these forms were feudal—namely, grants *en fief* or *en seigneurie,* grants *en arrière-fief,* and grants *en censive* or *en roture.* The other three were allodial—namely, grants *en franc aleu noble,* grants *en franc aleu roturier,* and grants *en franche aumône* (frankalmoign, or mortmain). A discussion of the nature and incidents of each of these various forms of tenure may be found in Munro's *Seigniorial System in Canada,* chap. iv.

[2] Grants *en censive* were not made by the crown unless in very exceptional circumstances. For example, the grants at Detroit had been originally made by Lamotte-Cadillac, commandant of the fort; but, the title-deeds proving later to be irregular, the king ordered new deeds to be issued conveying titles direct from the crown. See *Jugements et délibérations du Conseil Supérieur de Québec,* VI. 1213; and *Titres des Seigneuries,* 173–175. Papers concerning these

The proportion in favour of fiefs and seigneuries (alluding to the royal grants) is beyond comparison greater than all the other tenures.

Question 3.—"What securities had the French Crown by the law of the country, or the nature and tenor of the grants, to compel or promote the cultivation and improvement of the land granted?"

A power of reuniting the estate to the King's domain, in default of cultivation and improvement by the grantee, was the only, if it can be deemed any security of the Crown; and this—

1st. By the tenor of the grant, almost universally stipulated;[1] and

2nd. By virtue of two arrêts of the King, of the 6th of July, 1711,[2] his arrêt of the 15th of March, 1732,[3] and his declaration of the 17th of July, 1743.[4] Several seigneuries, and more particularly those near Lake Champlain, were, antecedent to the conquest, at the instance of the King's attorney-general, reunited to the King's domain, by ordonnances of the governor and intendant, for want of cultivation and improvement made by the grantees, and afterwards re-granted to others, and in some instances to the same grantees.[5]

Question 4.—"What were the legal burdens upon the grantee of the Crown in reservations, conditions, rents, and services; or what were the benefits accruing to the French

grants are printed, together with various other documents relating to Lamotte-Cadillac, in Michigan Pioneer and Historical Society, *Collections*, Vols. XXXIII.-XXXIV.

[1] The usual stipulation was "that the said grantee shall keep or shall cause to be kept hearth and home (*feu et lieu*) on the said seigniory."

[2] Printed above, pp. 91–94.

[3] Above, pp. 174–175.

[4] *Édits et Ordonnances*, I. 572.

[5] See, for example, the ordinance of May 10, 1741, by the terms of which some twenty seigniories were reunited to the royal domain (*Édits et Ordonnances*, II. 555–561). For an instance of the re-granting of a forfeited seigniory to its former owner, see *Titres des Seigneuries*, 204.

Crown from the nature of the grant, founded in the usual reservations, or by the general laws of the country?"

The grantee and his heirs and assigns, by the tenor of this grant and by the law of the country (Art. 32 and 35 of the Custom)[1] were bound to render fealty and homage to the King (by his representative) at the Castle of St. Lewis in this city;[2] the vassal was bound at the same time, or within forty days after (Art. 8, 10, and 11), to deliver to the King's representative an *aveu et dénombrement*,[3] that is to say, a particular statement of his title, the extent of his fief, its dependencies, appurtenances, and prerogatives, whether he had a right to hold courts of justice, high, inferior, or low justice, any and which of them; the amount of the rent of the clerk's and notary's offices, fines, and other rights; his manor-house, the lands of his domain, the quantity and quality of his arable, meadow, pasture, and wood lands, what ponds and lakes, what farm-houses and other buildings he had on his domain, the boundaries of the farms, their revenue and to whom let, or whether he cultivated them himself, the annual amount of the *cens*, rents, and other dues, with the number and names of his *censitaires* or *terre-tenants*, or others subject to pay rent to him; the rights and services he owed on account of his fief, whether he had right of mill; the lands granted *en roture* on his estate; and a particular designation of the *arrière* or rear fiefs; how he became entitled to his fief and seigneurie, whether by succession (and particularly whether in the line direct or collateral), by purchase, gift, or how otherwise.

Upon the sale or other mutation of the fief (except in the

[1] These and the subsequent articles of the Custom of Paris referred to in this report may be conveniently found in *Abstract of those Parts of the Custom of the Viscounty and Provostship of Paris, which were received and practised in the Province of Quebec in the time of the French Government* (London, 1772–1773).

[2] The ceremony referred to was performed "without sword or spur, with head uncovered, and on bended knee." A description of it, drawn from the *Actes de Foi et Hommage*, is given in Parkman's *Old Régime in Canada*, II. 43–44.

[3] See above, pp. 167–168.

direct line) the fine called *droit de quint*,[1] or a fifth part of the amount of the purchase money was payable to the King, at the time of rendering fealty and homage (Art. 25), in respect of lands governed by the Custom of Paris, which is the general law of the country; and in respect of lands governed by the Custom of *Vexin le Français* (for there were some few grants made subject to that custom) a *relief*, *i.e.* one year's revenue of the fief sold (Art. 33), and not the *quint*, was payable upon every mutation whatsoever.[2]

The King might use his right of *retrait féodal*, the *jus retractum*, within forty days after notice given of the sale of any fief and seigneurie made by his grantee, reimbursing the purchaser his purchase money, and the legal expenses (*loyaux couts*), Art. 20; but this right ceased after an investiture of the new vassal.[3]

These are legal burdens.

A few old grants made by the India Company stipulated that on every mutation a medal of half an ounce or an ounce of gold (*une maille d'or*) should be paid the Company in lieu of the *quint*.[4]

The usual reservations and conditions in the more ancient grants were:

1. That the grantee should, within a year and a day, build an habitation upon, and actually inhabit the lands (*tenir feu et lieu*) and cultivate and improve the same (*déserter et mettre en valeur*) and cause his ter-tenants (*censitaires*) to do the same within the same period; (some grants mention that the lands are to be stocked with cattle in two years;) in default of which the King should of right re-enter into the possession of the

[1] See above, p. 178, note 2.

[2] See above, p. 75, note 2.

[3] *Cf.* above, p. 73, note 2.

[4] These grants were made, not by the "India Company," or Company of the West Indies, but by the Company of One Hundred Associates. For an example of this stipulation, see the title-deed of the seigniory of Beauport (*Titres des Seigneuries*, 386).

lands granted; but a formal process for the reunion was, however, thought necessary, and always prosecuted by the attorney-general.

2. That the grantee should preserve all oak trees growing on his domain, and cause all oak trees fit for the construction of the King's ships to be preserved by his sub-feudatories (*censitaires*).

3. That the grantee should give immediate advice to the King or his governor and intendant, of the discovery of all mines, ores, and minerals (*mines, minières, et minéraux*) found in the lands granted; with exception only to two grants, wherein they are expressly given to the grantees.

4. That the grantee should get the grant ratified by the King, generally within the period of one year.

5. That the grantees should permit the necessary roads to be laid out for public utility, and cause a clause to be inserted in their concessions to the ter-tenants that they should do the same.

The more modern grants contain the same reservations and conditions, but they also contain additional stipulations namely:

6. That in case the King should have occasion for any part of the land granted for the purpose of building forts, batteries, places of arms, stores, or other public works, he should be at liberty to take the same, together with the trees and timber that should be necessary, and also firewood for the supply of the garrisons, within the extent of the lands granted, without being held or bound to make any compensation to the grantee.

7. That the grantee should allow the free use of the beaches to all fishermen, except such part as he might stand in need of for his own fisheries.

8. That the grantee should concede lands to his sub-feudatories at the accustomed rents and dues (*cens et rentes et redevances accoutumés*) for every acre in front by forty in

depth; about a fourth part only of the grants contain this clause.[1]

9. In many of the latest grants the King reserves the right of taking oak timber, masts, and yards (*mâtures*), and all other timber proper for the construction and equipment of his ships, without making any compensation for the same; and in one grant the King reserves the red or pitch pine for making tar.

There were no rents reserved to the King by the grants made in fief and seigneurie;[2] nor were the grantees liable to any legal services, except rendering fealty and homage to the King's representative, and furnishing the *aveu et dénombrement* in the manner before described, but this they were bound to on pain of the *saisie féodale* of their estates (Art. 1).[3]

By one of the arrêts afore-mentioned of the 6th July, 1771, the grantees were bound to concede lands to their sub-feudatories for the usual *cens et rentes et redevances*, and by the arrêt of the 15th of March, 1732, upon non-compliance on the part of the royal grantee, the governor and intendant were impowered and directed to concede the same on the part of the Crown, to the exclusion of the grantee, and the rents to be payable to the receiver-general. The grantees are thereby also restricted from selling any wood-lands (*bois debout*), upon pain of nullity of the contract of concession, a reunion of the lands to the royal domain, and restitution of the purchase money to the sub-feudatory.

[1] This answer is misleading. Down to 1711 not a single title-deed granted by the Company or by the crown had stipulated that the seignior should concede lands within his seigniory at "the accustomed rents and dues." In this year the obligation was imposed upon the seigniors by the provisions of the Arrêt of Marly (printed above, pp. 91–93); but even after this date the clause was rarely inserted in the title-deeds. The whole question as to the seigniorial obligation to subgrant lands is discussed at length in Dunkin's *Address at the Bar of the Legislative Assembly . . . on behalf of certain Seigniors in Lower Canada* (Quebec, 1853), and in Lafontaine's *Observations* (Quebec, 1856), 8–150.

[2] That is, no annual rents.

[3] The *saisie féodale* was the right of the dominant seignior to resume possession of a fief whenever the possessor failed to fulfil the conditions upon which the original grant had been made.

The benefits accruing to the French Crown from the nature of the grants *en fief et seigneurie*, were casual; under the Custom of Paris, the revenue of *quint* (a third of which was usually remitted), and under the Custom of *Vexin le Français*, a *relief*. I have mentioned the *droit de retrait féodal*.

By the *roture* tenure, the grantor, whether the King directly, or his grantee *en fief* mediately, stipulated a specific sum (one halfpenny for every acre in front by forty acres in depth) payable to him by the *roture* grantee annually on a fixed day, and at the seigneur's mansion-house, for what is termed *cens*, evidencing thereby that he was the seigneur *censier et foncier*, or immediate seigneur of the *roture* grantee, *marque de la directe seigneurie*: a specification indispensably necessary to entitle the seigneur to be paid the *lods et ventes*,[1] upon every subsequent alienation of the land granted (*cens porte lods et ventes*), and another specific sum (one halfpenny for every superficial acre contained in the grant) for what is called *rente*.[2] In the towns of Quebec and Three Rivers, the reservation of the *cens et rentes*, for small lots, are variable and very low, but specifically ascertained.

Upon every mutation of *roture* lands, the new proprietor

[1] There is considerable difference of opinion among authorities on feudal law as to whether the *cens* was in its nature a merely nominal due paid "pour la marque de la directe seigneurie," and valuable merely as evidencing the seignior's claim to the *lods et ventes* and other more lucrative casual payments; or whether it was in its origin a substantial annual payment which, through continued depreciations in the value of French currency, had come to be nominal in amount. This point is discussed at length in Lafontaine's *Observations*, 150–168.

[2] The seigniorial *rentes* were payable sometimes in money, sometimes in produce, and sometimes in either money or produce as the seignior might choose (see Raudot's letter to Pontchartrain, November 10, 1707, printed above, pp. 70–80, especially p. 76). There appears to have been considerable disagreement between the seigniors and their dependants as to whether the money payments should be made in French or in colonial currency; for during the latter part of the old régime the latter became depreciated. A royal decree dealing with this matter may be found in *Édits et Ordonnances*, I. 370–372 (July 5, 1717).

was bound to produce his titles to the seigneur, and in forty days after exhibiting the same, the seigneur, in case of a mutation by sale, and even upon donations *inter vivos*, from a collateral branch or stranger, was entitled to the alienation fine called *droit de lods et ventes* (Art. 73), which is the twelfth penny or a twelfth part of the price or value of the land; a fourth of the fine was usually remitted by the seigneur, but without any obligation so to do.[1]

The King, by virtue of an edict of the 20th of March, 1673, had the right of *lods et ventes* upon exchange of one inheritance for another, on lands granted by the Crown *en roture*.[2] But this right was limited to the King alone, and did not extend to his grantees *en fief et seigneurie* over their sub-feudatories, except the seigneurs of the Island of Montreal, to whom this right was given, in lieu of the *droit de justice*, which they relinquished.[3]

[1] The solicitor-general is evidently in error as regards the usual rebate allowed. A decree of the Superior Council, March 15, 1677, makes mention of "a remission of one-third as made by all the seigniors of this country" (*Édits et Ordonnances*, II. 76). See also *Report of the Commissioners* (1843), printed below, pp. 308–357.

[2] There appear to have been two royal decrees on this point, one issued March 20, 1673, and the other in February, 1674; but neither of them, so far as I can ascertain, was ever registered in Canada. The matter is mentioned in a despatch of Dupuy to the Minister dated October 20, 1727 (*Correspondance Générale*, XLIX.), part of which runs as follows: "It is true that the seigniorial dues on exchanges are not provided for in the various customs, and certainly are not by the Custom of Paris; nevertheless . . . these were provided for by the King in 1673 and 1674. It was necessary to establish these rights to prevent frauds. The registration in Canada of the decrees and declarations of 1673 and 1674 was not necessary . . . ; it was sufficient that the King had his domain in Canada, and . . . wherever the King has his domain established, the rights attached to the domain exist in their integrity." Dupuy further recommended that the right of collecting *lods et ventes* on exchanges of farms should be given to all Canadian seigniors, as "the only means of putting a stop to fictitious contracts made for the purpose of disguising all sales under the name of an exchange and thus defrauding the seigniors . . . of their mutation fines." The intendant's recommendation was not, however, adopted.

[3] The royal decree giving this right to the Seminary of St. Sulpice, seignior of the Island of Montreal, may be found in *Édits et Ordonnances*, I. 342–346.

These are legal burdens, but clearly ascertained.

The benefits accruing to the French Crown from the nature of the royal grants *en roture* were merely the *cens et rentes*, and the casual revenue of *lods et ventes*, with the right of pre-emption, but the right ceased after seisin given to the proprietor.

The *roture* tenants in Canada, in virtue of the King's edict of the 4th June, 1686,[1] and the provincial judicial decisions given in consequence, were bound to the servitude of grinding all the corn for the consumption of their families at the *banal* mills of their seigneurs. The toll is the fourteenth bushel; and the penalty for the contravention, under the authority of provincial decisions, is understood to be the payment of *double toll*.[2]

Question 5.—"What were the benefits which the grantee of the Crown might draw from the sub-feudatory; or what were the burdens, the acknowledgments, rents, and services, to which the occupants under the royal grantee were liable from the nature of the concession or by the law of the country?"

This is in great part answered upon the fourth question, in respect of the benefits which by the law of the country (independent of conventional stipulations) the grantee of the Crown might derive from his sub-feudatory; and which in fact are the burdens that the sub-feudatories are liable to. But the grantees, of long usage, imposed other stipulations in their contracts of concession to the sub-feudatories; such as the *retrait conventionnel* (the *jus retractum*), the payment of one or more bushels of wheat annually, one or more capons, a certain number of days' labour (*corvées*), &c. But these are conventional burdens.

[1] Printed above, pp. 61–62.

[2] The penalty imposed upon a habitant who took his grain to any mill other than that of his own seigniory was, during the French period, often much more severe. In some cases it amounted to a confiscation of the grain or the flour, together with the vehicle in which it was being conveyed. See *Édits et Ordonnances*, II. 62–63.

Question 6.—"Was the estate of the grantee of the Crown subject to partition by marriage contract, testamentary disposition, or any other mode of alienation, voluntary or judicial, and by inheritance in the lines direct or collateral; or was any estate held impartible and unalienable, or in the nature of an English entail?"

I conceive the common law of this province, in relation to the powers to be exercised by marriage contract, testamentary disposition, or any other mode of alienation, respecting the tenure *en fief et seigneurie*, and that *en roture*, to be indiscriminately the same.

By contract made before marriage, the contracting parties might make such stipulations respecting both their real and personal properties as they unitedly judged fit. They might stipulate that the real as well as the personal property belonging to both, or either of them, or any designated part thereof, should, or should not, enter into the conjugal partnership. But after marriage, inheritances descending to either of them by succession in the line direct, or collateral, or given by donation or otherwise in the line direct (unless the contrary were expressed in the deed of conveyance) to either of them, did not enter into the *communauté* or partnership. Estates given collaterally, or by strangers, to either of them, after marriage, became a part of their joint property; but by express stipulations in the conveyance, the liberality of the donor might be prevented from becoming a part of the common stock.

Antecedently to the Quebec Act, 14th of His Majesty, ch. 83, a fifth part only of estates descended by inheritance, which are termed *propres*, could be devised or otherwise disposed of (except in case of actual sale) to the prejudice of the heirs direct or collateral, who in that respect might be said to have the expectant reversion of the other four-fifths.[1]

Real as well as personal property acquired or purchased

[1] This rule was established by the Custom of Paris, Article ccxcii.

pending the *communauté*, which are termed *conquêts*, being the fruits of the joint industry of the husband and wife, were a part of the joint stock and partible as such.

In case of marriage without a previous contract, no part of the real property of either husband or wife, before marriage, entered into the *communauté* by the municipal law; their personals alone did so.

Estates *en fief et seigneurie* are partible in the manner following:—

The eldest son, in the nature of a jointure (*par droit d'âinesse et préciput*),[1] succeeds to the mansion-house (*château ou manoir principal*), the inner yard (*basse cour*), and superficial acre of land adjoining to the mansion-house, supposed to be an enclosed garden (*un arpent de terre de l'enclos et jardin*), if there be such; and if there happens to be a mill within that enclosure and annexed to it the right of banality, the body of the building belongs to him, but the profits of the toll are not vested in him alone, they are divided in proportion to the inheriting rights of each of the heirs (Art. 13 and 14). If it should happen that there were but a son and one other child to inherit, the eldest son succeeded to two-thirds of the estate, his brother or sister to the other third (Art. 15).

If there were more children, the eldest son succeeded to one moiety, the other children to an equal proportion of the other moiety (Art. 16).

The *droit d'âinesse* did not extend to females, but succession in the direct and collateral lines were divisible in equal portions (Art. 19).

In the collateral line, females did not succeed with males in equal degree (Art. 25).

Upon marriages had without a previous contract, the widow had her customary dower (*le douaire coutumier*), which was a moiety for her life of the revenue of her husband's real

[1] The *droit d'âinesse et préciput* is better known to English students of feudal history as the principle of primogeniture.

estates possessed at the time of his marriage, and those descending to him in the line direct pending the marriage (Arts. 247, 248); descendible to the issue of the marriage (Art. 249); upon renouncing to their father's succession (Art. 250); for they cannot claim to the estate by inheritance and to the right of dower. *Nul n'est douairier et héritier de son père* (Art. 251).

Estates subject to the customary dower stood pledged (*hypothéqués*) from the day of the marriage for the security of the widow and issue of the marriage, and if aliened afterwards, they continued subject to her and their rights.

Marriage contracts, donations *inter vivos*, and by testamentary dispositions, and entail, which the civilians term *substitution* (*fidéi-commissaire*) may be created (though I know no instance of it in this province, but there may be some) so far down as the second degree (*l'ordonnance d'Orléans*); they must be published and enregistered in the proper court of justice within six months after the date, if *inter vivos*, and within the same period after the decease of the substitutor if it be a testamentary disposition, and in that case they cannot be purged or affected by any judicial decree whatsoever, except respecting debts due by the substitutor.

Question 7.—"Were the sub-feudatory farms of the concessions of the tenantry, held under the royal grantees, devisable, descendible, alienable, and partible in the like manner without limitation?"

With exception to the partition of the *roture* lands among the heirs, which were partible among them in equal shares, without the *droit d'âinesse* or other preferable right, the answer to the sixth question applies.[1]

Question 8.—"Would a conversion of the French tenures

[1] Further information concerning the French jurisprudence relating to marriage jointures, dower rights, and succession to real property may be conveniently found in Glasson's *Précis élémentaire de l'histoire du droit français* (Paris, 1904), Adhémar Esmein's *Cours élémentaire d histoire du droit français* (Paris, 1905), and Paul Viollet's *Histoire du droit civil français* (Paris, 1893).

into the tenure of free and common socage be advantageous to the proprietor holding by grant of the French Crown in fief, seigneurie, or roture, discriminating its effects as to the parcels that are settled, or such as are still unconceded and uncultivated; and what in particular appears to you to be the instances of advantage or disadvantage to result from such conversion?"

There appears to be engrafted on the royal grants the fiction of feudal tenure, drawing after it the servile appendages of alienation fines, &c., *quints* and *reliefs* upon the tenure *en fief*, and *lods et ventes* and the servitude of *banalité* upon that *en roture;* and therefore a general answer to this question can give no embarrassment; nor can I hesitate saying that a conversion of those tenures into that of free and common socage, which is not subject to those appendages, would be advantageous to the *roture* grantees of the Crown.

With regard to the royal grantees *en fief et seigneurie*, such a conversion, if unqualified, might, and I think would, operate a heavy loss to most of them, by being deprived of their certain revenue of *banalité*, and their casual revenue of *lods et ventes*.

The *droit de justice*, accorded to them by their grants, which though exercised in many seigneuries antecedent to the conquest, but tacitly relinquished, or at least not exercised since that period, is an object frequently mentioned by the seigneurs, to whom by their grants that right was given.[1]

The *haute justice*,[2] on account of the prisons which the

[1] During the period of military rule (1760–1764) all cases were brought in the first instance before the military tribunals. In 1764, when a system of civil courts was established, no provision was made for the exercise of any seigniorial jurisdiction (see Order in Council, September 17, 1764, printed in *Ordinances made for the Province of Quebec by the Governor-in-Council of the said Province*, Quebec, 1767, pp. 9–10). The judicial privileges of the seigniors were never entirely abrogated by any positive enactment, but they were in this way quietly eliminated.

[2] Judicial powers, when given to seigniors, might include the rights of "high," "middle," or "low" jurisdiction. Usually all three degrees were granted. The scope of powers conferred, and the limitations imposed upon the exercise of them by the seigniors, are discussed at length in Munro's *Seigniorial System in Canada*, chap. viii.

seigneur haut justicier was bound to erect and maintain, as well as of the necessary officers of that justice, might be considered onerous upon them; but, on the other hand, they were entitled to the confiscated estates and effects of persons convicted of felony within their seigneuries, to estrays, to estates escheating for want of heirs, to the possession of vacant inheritances, and to judicial fines.

By the statute of the 14th of His Majesty, ch. 83, I conceive the criminal powers of the seigneurs to be abrogated, and their pretensions limited to the civil part only.[1]

A conversion of the tenure *en fief* into free and common socage would exonerate those estates from the alienation fines payable to the King in the manner I have mentioned; but as they have in view to hand down their estates to distant generations of their families, many of them consider the exemption of payment of those fines to be but of little moment; and therefore, upon that ground, a conversion of the tenure would be a certain disadvantage, but no certain benefit to them, respecting the parcels of their estates that are already conceded.

It may not have the same effect with respect to the unconceded part of their estates; 'tis true, the conversion of the tenure into free and common socage, would, by a fit law for that purpose, preclude them from their now legal rights to alienation fines and *banalité*, but they might dispose of that part of their estates in fee simple, for such annual quit-rent as may be agreed upon, or upon leases for lives, or term of years, perhaps to a greater advantage than those at present granted upon the *roture* tenure; and there is great reason to apprehend, that *that* part of their estates would be more rapidly settled and cultivated; I am therefore of opinion, that in respect of the ungranted parcels of their estates, no material disadvantage,

[1] This statute, more commonly known as the Quebec Act, provided for the retention of English criminal law, but revived the French civil law, and with this, in the opinion of the solicitor-general, the powers of the seigniors in civil suits.

perhaps a much greater benefit would accrue to them, by a conversion of the tenure into free and common socage.

Question 9.—"Would such conversion of the tenure of the estates or farms of the sub-feudatories be beneficial or detrimental to them; and in what respects as you apprehend, and for what reasons?"

The benefits that would result to the *roture* grantees of the Crown, of which I have spoken in the answer to the 8th question, would equally affect the sub-feudatories of the royal grantees in fief.

It is, however, right to observe, that, by the French King's edicts and declaration before-mentioned, the royal grantee *en fief* was bound to concede lands to all applicants *for the accustomed rents and dues*, and upon his non-compliance, the governor and intendant were directed to do so, on the part of the Crown, and for the benefit of the Crown; this may be considered a great facility for the settlement of the children (who are numerous) of the poor peasantry of this country, to whom alone, and in this respect only, the conversion of the tenure may prove detrimental, from their inability to purchase lands, though a wilderness, on account of the exorbitant demands of the proprietor.

Question 10.—"How may the interests of the Crown and public be affected by such conversion; stating the points in which it may operate to the loss or emolument of the royal revenue?"

The interest of the Crown in relation to the grants made by the French Crown, and there have been very few, and of but small parcels or lots (except that given to Mr. Shoolbred in the district of Gaspé) since the conquest, is but of small consideration in point of revenue. Alienations of *fiefs* and *seigneuries* in the country are not frequent, but the royal *roture* grants, in the town of Quebec, merit some consideration, not in respect to the quantum of the annual rents, but on account of the fine of *lods et ventes*, proceeding from the frequency of

alienations; they are a casualty, and cannot be precisely ascertained, any more than the revenue of *quint*.

But if the extensive tracts of the ungranted lands of the Crown were divided into distinct seigneuries, and grants made of the lands therein to the peasantry upon the *roture* tenure, the revenue deducible to the Crown thereby, might, and would in the course of a series of years, be very productive, and continue to increase. At the same time I am of opinion that the settlement of the waste lands might, under that tenure, be checked and greatly impeded, to the detriment of the population, agriculture, and commerce of the province, a great part of the benefits of which would centre in the mother country.

Question 11.—"By what mode may such conversion of the tenure be created? If the prerogative is competent for it, what clause may be necessary in the royal patents or grants, and if a law is wanted to effect the design, what paragraphs ought it to contain for the interest of the proprietors whether *seigneur* or *censitaire*, lord or tenant, or most eligible as well for individuals as the Crown and the public, taking at the same time into consideration the statute of 12 Car. 2, ch. 24?"[1]

The existing tenures being part of the municipal laws of the country, I think a law will be necessary to declare their conversion.

I shall, with all the expedition that my now pressing avocations in the Council Office Department will admit, set about preparing such clauses as, to me, may appear expedient for the intended law. I submit this report, as a work done with some degree of precipitation, proceeding from the motive of accelerating the important object under the consideration of this Honourable Board; requesting your indulgence till a future day, to submit the necessary paragraphs to be inserted

[1] This was the statute by the terms of which the last important relics of feudalism were abolished in England.

in the act.—I have the honour to be with great respect, Gentlemen, your most obedient and humble servant,

J. WILLIAMS, *Solicitor-General.*

QUEBEC, 5*th October* 1790.

No. 74. Answers submitted by Charles de Lanaudière to various Questions relating to the Seigniorial System, October 11, 1790.

Canadian Archives, Series Q, XLVIII. pt. i. 72 ff.

Answer to the First Question[2].—In *fief* and *seigneurie,* some in fiefs of dignity, with the right of high, middle, and inferior justice, and some in fief without the right of justice. Town lots, and some small tracts in the country, *en censive* or *roture*, so that, generally, there is no other tenure in Canada than *fief* and *roture*, governed according to the Custom of Paris, and the *Vexin le Français*, surrounded by that of Paris.

Second.—The fiefs granted by the Company of the Associates of New France, that is to say, before 1663 (at which time that Company surrendered their rights to the King), were principally granted according to the Custom of *Vexin le Français*. Posterior to that period, the King granted none but according to the Custom of Paris. All are relevant from the Castle of St. Lewis at Quebec, the place designated in the title-deeds of

[1] Charles Tarieu de Lanaudière, seignior of Lanaudière, was the descendant of Tarieu de Lanaudière, who came to Canada as an officer in the Carignan regiment (see above, p. 123, note 3). He had served in the Revolutionary War as aide-de-camp to General Guy Carleton, and had accompanied the latter to England in 1778. Returning to Canada, he became a member of the Legislative Council in 1787, and held this post until his death in 1811. Further details regarding his life and work are given in Daniel's *Histoire des grandes familles françaises du Canada*, 470–480. The answers here printed were framed by Lanaudière at the request of the Council.

[2] The questions are the same as those submitted to the solicitor-general. See above, pp. 250–267.

concession, for rendering fealty and homage to His Majesty, and other rights and dues according to those customs. With exception to the house-lots in the towns of Quebec and Three Rivers, there are only a few royal grants *en censive* in Canada, except at Detroit, where all the grants are issued by His Majesty in *roture*, as well in the town as in the country. The royal grants of the French government are therefore principally in fief and seigniory, high, middle, and inferior justice.

Third.—By the King's order of the 20th of May, 1676[1] (the first royal regulation relating to lands, found enregistered by the Superior Council or parliament of Quebec) the King's governor and intendant ought not to grant lands in *fief* or in *roture* to the inhabitants of Canada, but upon condition that the grants in fief should be represented to the King within a year from their date, to be confirmed or ratified by His Majesty, upon pain of nullity; and upon condition, that the grantees should cause the lands to be cleared and improved within the subsequent six years.

In 1711, the 6th of July, the King ordered by his *arrêt*[2] (also enregistered in the Superior Council of Quebec) that the seigniors of the colony who had no domain cleared, nor inhabitants placed upon their seigniories, should put them into culture within one year, on pain of being reunited to the King's domain, upon the judgment which the governor and intendant should render, at the prosecution of the attorney-general. That the seigniors should make grants to the inhabitants *à titre de redevance*, that is to say, in *roture* or for *cens et rentes*, without exacting from them any money in the nature of a sale; and in default of doing so, the inhabitants were permitted to make a demand upon the seignior by *sommation*, and, in case of refusal, to address themselves to the governor and intendant, upon whom it was incumbent to make the concessions to the inhabitants, subject to the same rights with other lands conceded in the seigniory, payable to

[1] Printed above, pp. 41–42.

[2] Above, pp. 91–93.

His Majesty, and not to the seignior. Another *arrêt* of his Majesty of the same day, ordering all inhabitants or *censitaires* of the seigniors to put their lands in cultivation, and to inhabit them within a year and a day, upon pain of being reunited to the seignior's domain, by judgment of the intendant.

Another *arrêt* of His Majesty of the 15th March 1732,[1] enregistered at Quebec, mentioning the foregoing *arrêts* of the 6th of July 1711, and restraining the seigniors and other proprietors from selling any wood-lands (*en bois debout*) upon pain of nullity, restitution of the purchase money, and reunion to the domain of His Majesty, or of the seigniors.

The 17th July 1743, a declaration of His Majesty (enregistered)[2], authorising the governor and intendant to make grants of lands, to proceed to reunite to His Majesty's domain the lands granted that should be found liable to be so, for want of culture, and prescribing the mode of proceeding in that respect, attributing to them the cognisance of all matters relative to grants, to the exclusion of all other judges.

All the titles or brevets of concession of lands contain clauses obligatory of cultivation. It does not appear that either those clauses, or the *arrêts* quoted, were ever rigorously executed, being considered comminatory, rather than penal.

Fourth and Fifth.—The legal and customary charges of grants in fief, are fealty and homage, the *aveu et dénombrement* or land-roll, the *retrait féodal* and *lignager*, the *quint*, the *relief*, the right of *franc fief*, of *amortissement* and *nouveaux acquêts;* these charges draw after them the fidelity and military service of all possessors of fiefs and rear-fiefs, under whatsoever title, as well personally as by pecuniary contribution; the feodal seizure, forfeiture, or confiscation for services and rights not paid and rendered, or of felony, denial, reproach, or scandal of the seignior, or of an illegal dismemberment of the fief, and other usual charges, duties, and feodal restraints, as the case might require.

[1] Above, pp. 174–176.

[2] *Édits et Ordonnances*, I. 572.

The ordinary modern reservations in grants *en fief* are (1) Fealty and homage; (2) The accustomed rights and dues according to the Custom; (3) The preservation of oak timber fit for the construction of His Majesty's ships; (4) To give the King advice of mines, ores, and minerals found; (5) That appeals from the seigniorial courts should be made to the provostship of Quebec; (6) To build a habitation, and to inhabit it (*tenir feu et lieu*) and to cause their sub-feudatories to do the same; (7) To clear and cause to be cleared, without delay; (8) To suffer to be made all the roads necessary for public utility; (9) To insert similar clauses in the concessions to ter-tenants, at the usual *cens*, rents, and dues per acre of land in front by forty in depth; (10) To permit the beaches to be free for all fishermen, with exception to such part as the seignior should have occasion to use for his own fishery; (11) In case His Majesty should at any future time have occasion for any part of the seigniory, whereon to build forts, batteries, places of arms, stores, or public works, His Majesty might take the same, as well as the timber necessary for those works, and the firewood for the garrison therein, without being held to make any recompense.

The charges of the high justice (*haute justice*) are:— (1) By the ordinance of Roussillon in 1563, Art. 27, it is enacted, that the jurisdiction thereof shall be simply under that of the Parliament, and the seigniors (*hauts justiciers*) condemnable in sixty *livres* (*parisis*) for the erroneous judgments of their judges; (2) Children found exposed within the extent of their jurisdiction, are at the seigniors' charge, according to different *arrêts*, particularly the regulation of the 30th June 1664; (3) The seignior, having the right of holding courts of justice, is obliged to have a hall (*auditoire*) on the outside of his *château* to hold his court at, together with prisons on a ground-floor, that the prisoners may be kept in a dry place; (4) The officers should execute, and rigidly exact the execution of the police, which is a heavy charge,

more especially respecting the prosecution of criminals and delinquents, for all species of crimes; (5) The seigniors having right of justice, are obliged to exercise and render justice to their vassals and subjects at their own expense, that is to say, to pay salaries or wages to their officers according to the ordinance, upon pain of losing their right of justice.

Fiefs of all sorts owe fealty and homage, or oath of fidelity to the dominant seignior, and military service to the King, when His Majesty shall be pleased to assemble the *ban* and *arrière-ban*, and *sous-arrière* vassals. All estates being originally issued from the royal domain, have been charged with military service, as an inherent and inseparable condition of the fief and oath of fidelity made to the King by his direct vassal; a reason why all proprietors of fiefs, rear-fiefs, in whatsoever degree of partition they are found, are obliged to attend at the *ban* which the King causes to be proclaimed whenever he chooses to assemble the nobles and vassals of his estates. They should assemble where the King directs, in arms, in men, and in the equipage of military service.

The ordinance of François the First of the 19th May 1740 [1540], distinguishes the services of the vassal by the value of his fief, viz.: a fief producing an annual revenue of 500 or 600 livres, a horseman armed and mounted; a fief of 300 or 400 livres, a horseman with an attendant *arquébusier*; a fief of 200 or 300 livres, a man on foot, armed; the smallest fief, a man on foot.

That increased or diminished according to the order and the will of the prince. Louis the Thirteenth, the 30th July 1635, made a regulation containing twenty articles for the *ban* and *arrière-ban*. Louis the Fourteenth made a convention by letters patent of the 11th August 1674,[1] commanding "all nobles, barons, chevaliers, esquires, vassals, and others holding fiefs and rear-fiefs, that all excuses set apart, upon pain of

[1] This ordinance may be found in Isambert's *Recueil général*, XIX., No. 779 (pp. 138–144).

seizure and confiscation of their fiefs, they put themselves in arms, mounted and equipped, according to what they shall be held bound, and to be present on the days and at the place to be fixed."[1]

Ecclesiastics and all others exempted from personal service ought to contribute one year's revenue of the fiefs they possess, or such other contribution as His Majesty shall regulate.

The *roture* persons, who are unworthy to carry arms with the nobles, are compellable to contribute to the tax of the *ban* and *arrière-ban* according to the value and revenue of their fiefs; and the *roture* proprietors who serve personally do not enjoy all the grace or favour which nobles do, and ought to contribute more than they do.

The *roture* possessions follow the same principle and order towards their dominant seignior as the fiefs do, because the vassals and sub-feudatories have the same obligations for the estates and inheritances which those seigniors have given them, and for which they owe acknowledgments or declarations on the event of each mutation.

Grants *en roture* are made by a title called lease for *cens*, or *cens et rente*, annual, perpetual, and portable. This lease, by its nature, obliges fidelity and acknowledgment to the seignior who grants it; also the right of banality, pre-emption conventionally and lineally, the alienation fine of *lods et ventes*, seizin, confiscation, and others, as cases may happen.

Expressions of resentment, contradiction, ingratitude, and scandal, be it by the vassal or sub-feudatory, are severely punished by the laws. Besides a confiscation of their lands, there are examples of being obliged to appear in court during its sitting, bareheaded, kneeling, fettered, asking pardon of their offended seigniors; even imprisonment, put to the

[1] None of these arrêts were registered in Canada; and it is now well settled that no royal decree could have been held binding in the colony unless duly inscribed on the register of the Council at Quebec. See F. P. Walton, *The Scope and Interpretation of the Civil Code* (Montreal, 1907).

galleys, and other unheard-of punishments, at the mercy of the judge.

Vassals and direct *roture* tenants of the Crown, render their duties and pay their rights to His Majesty or his representatives; the rear-vassals and *roture* tenants to their particular or dominant seigniors.

Sixth and Seventh.—Fiefs, as well as *roture* estates, are subject to successive partition, *ad infinitum*, either in nature, or a proportionate recompense in other estates or in money as well in the direct as collateral line, and each divided part, by operation of law, becomes a distinct and separate fief. It is the same with *roture* lands. The honorary, as well as pecuniary duties and dues are evidently complex, arbitrary, injurious. Can anything further be necessary to induce a benevolent monarch and nation to destroy them, and to grant in their stead that certain and determinate tenure of King Charles the Second, free and common socage, which the other subjects of His Majesty King George the Third enjoy, and with so much reason boast of. DE LANAUDIÈRE.

QUEBEC, 17*th October* 1790.

No. 75. Resolutions of the Council relating to the Seigniorial System, October 11, 1790.

Canadian Archives, Series Q, XLVIII. pt. i. 4 ff.

"THAT the progress of population and settlement in this province under the government of France, whatever the cause or causes of it, was slow; the cultivated parts even in the central districts of Quebec, Three Rivers, and Montreal, being to this day confined to the banks of the St. Lawrence, and the mouths of the navigable streams that fall into it.

"That the royal patents, grants, or concessions of the lands, were either in seigniory or in *roture*; the latter consisting

of town lots, farms, or small tracts, and the seigniories larger tracts of various dimensions, many of which are in the rear, or at a few leagues from the convenience of water carriage, still in forest.

"That the French King's territorial revenue arose from *quints* or alienation fines of one-fifth of the consideration money payable by the purchaser of the lands held in seigniory; and of *lods et ventes* of one-twelfth on the sale of lands held in *roture*; the lands in *roture* ordinarily paying also *cens et rentes*, the *cens* being one *sol*, or an English halfpence, for a front of one acre or 180 French feet, and the rent, another *sol* for every acre of the concession, with a bushel of wheat for every forty acres, or two fat capons of the value of twenty *sols*.

"That the French Crown did not exact its whole dues, but remitted a third both of the *quint* and *lods et ventes*.

"That the seigniories were parcelled out into farms, and these conveyed by the seigniors under like charges of *cens et rentes*, and subject to *lods et ventes*, except where a large parcel was granted in *arrière-fief*, on the subsequent transfers whereof a *quint* became due to the seignior, without *cens et rentes*.

"That all the grantees, as well of the Crown as of the seigniors, had permanent estates, under an *habendum* to them, their heirs and assigns.

"That according to the receiver-general's account, the territorial revenue for the thirteen years from 1st May 1775 to 1st May 1788 (comprehending arrears), was, in actual receipt at the Treasury, not equal to ten thousand pounds sterling.

"The *lods et ventes* being but	£1351	9	5¼
The *quint*	3148	1	4½
The balance of royal *rentes* from all the King's own seigniories, Sorel excepted . . .	4554	7	5¾
	£9053	18	3½
From Sorel	216	19	11
	£9270	18	2½

"Which, together with certain dues of customs fixed by act of Parliament, is by the royal grace given to the province towards the support of its government.

"That in exploring the causes of the tardy progression of the population of the colony under the government of France, there seems to be little or no ground for ascribing it to the non-compliance of the seigniors with the conditions for cultivation expressed in their patents or grants; the instances of prosecutions for taking advantage of those conditions, and reuniting their seigniories to the royal domain, being rare — and the seigniorial *censitaires* so much more numerous than the King's, that the former, or the inhabitants of the seigniories, at all times did, and do now, constitute the main body of the landholders of the country.

"That the feudal system, if that was amongst the causes of the non-settlement and proportionable debility of the French colony, operating to a discouragement of the royal grants, as well as the grants of the subject, there can be no just ground for holding the grantees to a rigorous performance of the conditions of their grants.

"That it was among the main causes of that low condition, in which Canada was found at the British conquest, is deducible from the probability that many thousands of families had found their account in emigrating from the exuberant population of the kingdom of France, if the government had given their lands here upon easy terms, and especially in the fertile regions and moderate climates, on the banks of the rivers and lakes in the south and southwest.

"That the discouragement of that system to the settlement of the old French grants, must in future greatly increase; the population of the province depending now upon the introduction of British subjects, who are known to be all averse to any but English tenures; and the Canadian seigniors of course be left without a hope of multiplying

their *censitaires*, except from the predilection of the descendants of the French planters to usages no longer prompted by the motives of interest, nor recommended by example.

"That the grant of the waste lands of the Crown in free and common socage, is essential to the growth, strength, defence, and safety of the province.

"That unless the old French seigniories can be settled upon terms as advantageous to the husbandman as the lands of the Crown, their land market must be at a stand to the detriment of the proprietors, until the cultivation of the waste lands of the Crown is damped by their remoteness from all water carriage and the conveniences and benefits of commerce.

"That with the advantage of a vicinity to the navigable waters and a conversion of the tenures, the seigniories will probably be the first to be fully cultivated, and with an increase of profit to the proprietors, under that ample dominion, which they will then enjoy over their lands, for settling them upon such terms as themselves may concert, to form a populous tenantry, and lay a foundation, in property, for that perpetuity of their names and families, which a wise and well-balanced government will be inclined to encourage and support.

"That the King's *roturier* tenants cannot fail to wish for a conversion and discharge from the *cens*, *rente* and *lods et ventes*, and all the other feudal burdens connected with the tenure under which they now hold.

"That the motives of interest will naturally make it the desire also of every seigniorial *censitaire* to stand upon the same free foundation of exemption with the other landholders of the colony; but as this commutation for a discharge of the rents and dues to the landlords must necessarily depend upon private conventions between them and their tenants, and involving considerations out of the contemplation of any but the parties reciprocally interested, their cases cannot be

the objects of special and particular legislative provision; perhaps the surest means of securing to the tenant a fair compact, will be to hold the lord to his dues to the Crown, until he has discharged his tenants from all the feudal encumbrances in his own favour.

"That the prerogative is competent to put the waste lands of the Crown under a socage tenure. But the legislative interposition is necessary to make that tenure universal.

"That if this is to be the work, not of Parliament, but of the colony legislature, the royal instructions given for the greater security of the property of the subject will require an act with a probationary or suspending clause, until His Majesty's approbation can be obtained.

"That an absolute and universal commutation of the ancient tenures, though for a better, would be a measure of doubtful policy; but that no substantial objection occurs against giving such individuals that benefit as desire it; and especially to such of the seigniors whose tenants or *censitaires* shall conceive it to be for their own, as well as for the interest and benefit of their landlords, and may therefore signify their consent to the change.

"That these ends may be accomplished by a law with clauses of the following tenor or import:

"Be it enacted, etc.

"That if any person or persons holding lands in the province of Quebec in fief and seigniory immediately of the Crown, and having authority to alienate the same, shall at any time after the commencement of this act surrender the same into the hands of His Majesty, his heirs or successors, by petition to the governor or commander-in-chief of the said province for the time being, setting forth that he, she, or they is or are desirous of holding the same in free and common socage, such governor or commander-in-chief for the time being shall cause a fresh grant to be made to such

person or persons of such lands to be holden in free and common socage; and every such change of tenure shall work the absolute extinguishment of all mutation fines, burthens and incumbrances within the tract so surrendered and re-granted, to which the same or any part thereof would or might have been liable under the laws and customs concerning lands held in fief and seigniory, or in any other manner than in free and common socage.

"Provided nevertheless, and be it also enacted by the same authority, that such surrender and re-grant shall not avoid or bar any right to any such lands so surrendered, or any interest in the same, to which any other than the person or persons surrendering the same shall have been entitled either in possession, remainder, or reversion or otherwise; but that every such right and title shall be as valid as if such surrender and re-grant had never been made.

"And provided also, and be it enacted by the authority aforesaid, as to all such lands as are held of the Crown in *roture* in the said province, the same shall be deemed and adjudged to be held in free and common socage, from the time it shall please His Majesty, by any instrument to be issued under the great seal of the said province, to declare the discharge of all *cens et rentes* and mutation fines due to the Crown thereon.

"And provided also, and be it further enacted, that nothing in this act contained shall be of force until His Majesty shall have signified his royal assent to or allowance of the same.

"And to provide for the case when it may happen that the seignior may be desirous of the conversion of the tenure of the seigniory, and some of the vassals or *censitaires* of it disinclined to the change.

"Be it also enacted by the same authority, that in every such case, the petition for a surrender as well as the patent for the re-grant thereof, shall express and describe with com-

petent certainty the situation and real contents of the lands and estates of all that are so disinclined to a change of tenure; and those parcels shall be excepted out of the said re-grant, and remain in all respects as if such re-grant had never been made; but that from and after such re-grant, one-fifth part of all *lods et ventes* or mutation fines, to accrue on the alienation of such accepted parcels, shall be paid by the proprietor or proprietors of the seigniory, for the use of His Majesty, his heirs or successors, and shall and may be secured by proper clauses and provisos to be expressed in such patent of re-grant."[1]

No. 76. Reasons submitted by Mr. Adam Mabane,[2] Member of the Council, in support of his Dissent from the Resolutions adopted by the Council, October 15, 1790.

Canadian Archives, Series M, CCLXXXVIII. 27 ff.

"Because the resolutions moved for do not appear to apply to the object of the reference.

"Because it appears that the slow progress of population and settlement under the government of France cannot be ascribed to any inherent vice in the several tenures under which lands are held in the colony; that it arose from the difficulties which the first settlers found in contending with

[1] The last two paragraphs of these resolutions are not included in the *Canadian Archives* copy (Series Q, XLVIII. pt. i. 4 ff.).

[2] Adam Mabane first came to Canada as an assistant surgeon on one of the troop transports. He remained in the colony after the conquest, and in 1764 was made a member of the Council by Governor Murray. Because of his somewhat strong anti-French predilections, Governor Carleton removed him from membership in 1766; but he later secured reappointment, and retained a prominent place in Canadian public affairs until his death in 1792. Throughout his public career Mabane was regarded as one of the leaders of the aggressive English minority in Lower Canada.

the fierce and savage nations which surrounded them, from their frequent wars with the British colonies, and above all from their repeated expeditions in the upper countries and toward the Ohio, in which the ambitious policy of France had forced them to engage.

"Because it appears evident from the rapid and almost unexampled progress of population in the province (from its own resources), being from 65,000 souls in the year 1766 to about 120,000 in the year 1784, and who are now chiefly employed in agriculture, that the present tenures are not inimical to population and settlement of the colony.

"Because the King's rights in the ancient tenures of the country being expressly reserved in the act of the 14th of the King,[1] and by His Majesty's gracious bounty appropriated to defray the expenses of civil government, ought not to be relinquished or sacrificed without an equivalent compensation.

"Because, however unproductive the territorial revenue may have hitherto been from the indulgence or supineness of government, no judgment can be formed from the sums actually collected, of the revenue that may hereafter arise therefrom, which must increase in proportion to the population and commerce of the province.

"Because the predilection of the native inhabitants of the province to their ancient tenures and laws ought not to be interfered with unless by their own consent, and on the strongest and clearest grounds of public utility.

"Because the alterations proposed by the resolutions or any other conversion of tenure tending to give the seignior a more absolute and unconditional possession of the fief would not only be a sacrifice of the King's rights, but would defeat the wise intentions and beneficent effects of the *arrêts* of 1711 and 1732, and the declaration of 1743, by

[1] 14 George III. c. 83, commonly known as the Quebec Act.

which the seignior is obliged to grant to such persons as will apply for them for the purpose of improvement, lands in concession subject only to the accustomed and stipulated rents and dues, and upon his non-compliance the governor is authorised on the part of the Crown and for the benefit thereof, to the exclusion of the seignior for ever, to concede or grant the lands so applied for. By the same law the seigniors are forbidden under pain of nullity and a reunion to the Crown of the land attempted to be sold to sell any part of their unimproved lands or *en bois debout*, dispositions of law highly favourable to the improvement of the colony, and which secure to the children of the *censitaires* or others the means of settlement and of employing their industry in cultivation on fixed and moderate terms, whereas if the conversion of the seigniories into free and common socage should take place, the children of the present inhabitants of the country and all others desirous to settle thereon would be left entirely subject to the arbitrary exactions of the seigniors to their infinite prejudice and the manifest detriment of the country's improvement.

"Because it appears that the services or burthens to which the *censitaires* under concessions from seigniors are subject, are few, clearly understood and ascertained, and are by no means onerous or oppressive."

No. 77. Extracts from the Constitutional Act of 1791.[1]

31 George III. c. 31.

XXXVI. And whereas His Majesty has been graciously pleased, by messages to both houses of Parliament, to express his royal desire to be enabled to make a permanent appro-

[1] The full text of this enactment may be conveniently found in Houston's *Documents illustrative of the Canadian Constitution*, 112 ff.

priation of land in the said Provinces for the support and maintenance of a Protestant clergy within the same, in proportion to such lands as have been already granted within the same by His Majesty; And whereas His Majesty has been graciously pleased by his said message further to signify his royal desire that such provision may be made with respect to all future grants of land within the said Provinces respectively as may conduce to the due and sufficient support and maintenance of the Protestant clergy within the said Provinces, in proportion to such increase as may happen in the population and cultivation thereof; therefore, for the purpose of more effectually fulfilling His Majesty's gracious intentions as aforesaid, and of providing for the due execution of the same in all time to come, be it enacted by the authority aforesaid, that it shall and may be lawful for His Majesty, his heirs and successors, to authorise the Governor, or Lieutenant-Governor of each of the said Provinces respectively, or the person administering the government therein, to make from and out of the lands of the Crown within such Provinces such allotment and appropriation of lands for the support and maintenance of a Protestant clergy within the same as may bear a due proportion to the amount of such lands within the same as have at any time been granted by or under the authority of His Majesty. And that, whenever any grant of lands within either of the said Provinces shall hereafter be made by or under the authority of His Majesty, his heirs or successors, there shall at the same time be made, in respect of the same, a proportionable allotment and appropriation of lands for the above-mentioned purpose, within the township or parish to which such lands so to be granted shall appertain or be annexed, or as nearly adjacent thereto as circumstance will admit; and that no such grant shall be valid or effectual unless the same shall contain a specification of the lands so allotted and appropriated, in respect of the lands to be thereby granted; and that such lands so allotted and appropriated

shall be, as nearly as the circumstances and nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated, and shall be, as nearly as the same can be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted.[1]

Sec. XXXVII. And be it further enacted by the authority aforesaid that all and every the rents, profits, or emoluments, which may at any time arise from such lands so allotted and appropriated as aforesaid, shall be applicable solely to the maintenance and support of a Protestant clergy within the Province in which the same shall be situated, and to no other purpose whatever. . . .

Sec. XLIII. And be it further enacted by the authority aforesaid, that all lands which shall be hereafter granted within the said Province of Upper Canada shall be granted in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of Great Britain called England; and that in every case where lands shall be hereafter granted within the said Province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common soccage, the same shall be so granted; but subject nevertheless to such alterations with respect to the nature and consequences of such tenure of free and common soccage, as may be established by any law or laws which may be made by His Majesty, his heirs or successors, by and with the advice and consent of the Legislative Council and Assembly of the Province.

Sec. XLIV. And be it further enacted by the authority aforesaid, that if any person or persons holding lands in the said Province of Upper Canada by virtue of any certificate of occupation derived under the authority of the Governor and Council of the Province of Quebec, and having power and

[1] *Cf.* below, pp. 284–288.

authority to alienate the same, shall at any time from and after the commencement of this Act surrender the same into the hands of His Majesty, his heirs or successors, by petition to the Governor, or Lieutenant-Governor, or person administering the Government of the said Province, setting forth that he, she, or they, is or are desirous of holding the same in free and common soccage, such Governor, or Lieutenant-Governor, or person administering the Government shall thereupon cause a fresh grant to be made to such person of such lands to be holden in free and common soccage.

Sec. XLV. Provided nevertheless, and be it further enacted by the authority aforesaid, that such surrender and grant shall not avoid or bar any right or title to any such lands so surrendered, or any interest in the same, to which any person or persons other than the person or persons surrendering the same shall have been entitled either in possession, remainder, or reversion, or otherwise, at the time of such surrender, but that every such surrender and grant shall be made subject to such right, title, and interest, and that every such right, title, or interest shall be as valid and effectual as if such surrender and grant had never been made.

No. 78. Opinion of the Law Officers of the Crown upon the Relation of Changes in Tenure to the Clergy-Reserves Provision of the Act of 1791, January 22, 1817.[1]

Canadian Archives, Series P, CXXXIII.-IV., pt. i. 135-139.

My Lord,

We have had the honour to receive Your Lordship's letter, dated the 18th instant, transmitting to us the

[1] It was the practice of the colonial authorities in England to refer all important questions in which legal points were concerned to the "law officers of the crown." These officers were the attorney-general and the solicitor-general.

copy of a despatch addressed by Your Lordship to the governor of Canada, and of the reply which has been received from Sir John Sherbrooke,[1] relative to the power of the Crown to accept the surrender of lands granted to individuals in Canada, for the purpose of re-granting them in free and common soccage, and Your Lordship is pleased to desire that we will take the same into our consideration, and report to Your Lordship our opinion, whether there is either under the statute of the 31st Geo. III. cap. 31,[2] or under the law originally prevailing in the province, as referred to in the minutes of the executive council, any legal objection to changing the tenure of lands in Canada, in the manner recommended.

In obedience to Your Lordship's commands we have considered the same, and beg leave to observe that, if it was intended to change the tenure of any lands without the consent or desire of the persons possessing such lands, or at once to effect a general alteration of tenure, there is no doubt that it could not be done without an Act of the legislative bodies, with the assent of His Majesty; but the question is, whether, if lands are surrendered to His Majesty, and thereby become re-vested in the Crown, His Majesty may not, by virtue of his prerogative, grant such lands to be holden by a tenure different from that by which they were formerly holden (provided the tenure on which they are so re-granted be one which is lawful in the province). That a man holding of the Crown may surrender his land to the Crown of whom he holds we conceive to be clear, and also that the Crown may re-grant them upon such terms or tenure, recognised by law, as shall seem fit, unless restrained by some law or Act of Parliament. Looking at the British Acts which relate to the province of Canada, we do not find any such restriction of the royal pre-

[1] Sir John Cope Sherbrooke was governor of Canada from July 12, 1816, to July 30, 1818.

[2] The sections of the *Constitutional Act* to which reference is made in this document are printed above, pp. 281–284.

rogative as applicable to this case. By the 14th Geo. III. cap. 83, the title under which any lands were then holden was not to be affected by that Act, but was to remain as if that Act had never passed. But by the same Act a power to grant lands in free and common soccage by the Crown is recognised, because after the eighth section has directed that the laws of Canada shall be the rule of decision in all matters of controversy relative to property and civil rights, the ninth section provides, that such provision shall not extend to any lands that have been or *may be* granted by His Majesty in free and common soccage. This statute imposes no restraint on the ordinary rights of the Crown, but merely leaves all subsisting tenure unaffected by that statute. There is by the forty-third section of the 31st Geo. III. cap. 31,[1] a restriction of the prerogative as to the tenure on which lands shall be granted in Upper Canada, because by that section His Majesty can only grant lands in free and common soccage, and all the consequences which follow such tenure by the law of England must follow such tenure in Upper Canada.

With respect to the province of Lower Canada, there is also a partial restriction upon the prerogative, as to granting lands to be holden by any *other* tenure than free and common soccage, namely, when the grantee shall desire to have them granted in free and common soccage, then they must be so granted.

These provisions, however, do not affect the right of His Majesty to accept a surrender of lands holden *en seigneurie*, and to grant such lands in free and common soccage, though they compel His Majesty in certain cases to grant them to be holden by such last-mentioned tenure.

The 44th section[2] does not apply at all to this case, and neither enables nor restrains His Majesty as to any powers of granting lands in Lower Canada, but relates to the giving good and valid grants of lands in Upper Canada, holden

[1] Above, p. 283.

[2] Above, pp. 283–284.

under an incomplete or informal title by a mere certificate of occupation. We do not consider that the message of Lord Dorchester, as far as we collect the contents from the papers, could be deemed restrictive upon the prerogative of the Crown, to accept a surrender of lands holden *en seigneurie*, or to grant such lands after they have been re-vested in the Crown, in free and common soccage.

The 36th section of the 31st Geo. III. cap. 31,[1] does not in terms or by inference impose any restriction on the prerogative of the Crown, to accept a surrender of lands holden *en seigneurie*, and to re-grant them in free and common soccage, but we think it would be necessary that at the time of such new grant, proportionable allotments should be made of other lands for the support of the Protestant clergy, equal in value to the seventh part to be specified in the new grant, for the regulations of that clause are general, and would apply to lands which had become re-vested in the Crown by surrender, as well as to lands which had never before been granted. It is stated by the chief-justice, and not disputed by the executive council, that the King of France, before the conquest of Canada, might have accepted a surrender of lands and have re-granted them, and indeed it would have been extraordinary if such had not been the law. His Majesty, of course, must have the same power, and though the King of France might not have had power to grant in free and common soccage, if such tenure had not existed in Canada by the laws then in force (upon which we do not venture to form any opinion), yet His Majesty having power to grant in free and common soccage, and being bound so to grant at the request of the grantee, if he grants at all, we humbly report to Your Lordship that there does not appear to us to be any legal objection to His Majesty's accepting a surrender of lands holden *en seigneurie*, and re-granting them in free and common soccage either under the statute of the 31st Geo. III. cap. 31,

[1] Above, pp. 281–283.

or under any law which prevailed originally in the province before the conquest.

We have the honour, &c., W. Garrow.
S. Shepherd.

The Right Honourable the Earl Bathurst.

2 Lincoln's Inn, 22*nd January* 1817.

No. 79. Opinion of the Law Officers of the Crown with reference to certain Difficulties encountered by the Colonial Authorities in carrying out the Arrangements for the Voluntary Commutation of Seigniorial Lands, August 1, 1817.

Canadian Archives, Series P, CXXXIII.–IV. 3.

My Lord,

We have had the honour to receive Your Lordship's letter of the 14th July, 1817, referring to an opinion of the 22nd January last, relative to the power of the Crown to accept the surrender of lands held *en seigneurie* in Canada, for the purpose of re-granting them in free and common soccage, and transmitting to us an enclosed letter from Lieutenant-General John C. Sherbrooke, requesting to be informed whether such change of tenure, by abolishing with respect to such lands the *droit de quint*, which was given over to the province by Lord Dorchester's message, would not be in some degree an infringement of the pledge so given by the government, or whether a mode could be devised of giving to the province an equivalent for the *droit de quint* so merged and lost to it by such change of tenure, and desiring that we will take the case into our consideration, and report to Your Lordship for the information of His Royal Highness the Prince Regent, our opinion, whether His Majesty is precluded by the declaration made in Lord Dorchester's message to the provincial legislature on the 29th April, 1794, from changing the tenure of lands

granted *en seigneurie*, which are now subjected to the payment of the *quint* appropriated towards defraying the civil expenses of the province, without a legislative act to that effect.

We beg to state to Your Lordship that, in the opinion which His Majesty's law officers gave to Your Lordship on the 22nd January last, they confined themselves to the consideration of the power of His Majesty to accept a surrender of lands holden *en seigneurie* and re-grant them in free and common soccage, without any legislative enactment enabling him so to do; that appearing to them to be the point then proposed for consideration. But the question now presented by the governor's letter is of a very different nature. It is not a question upon the right of the Crown so to alter the tenure, but upon the propriety of such an exercise of His Majesty's prerogative, whereby the province will be deprived of one of the sources of revenue toward defraying its civil expenses, with which it was furnished by the appropriation of the revenue arising from the *droit de quint*, as communicated in Lord Dorchester's message, and upon this point we think that Lord Dorchester's message did give an expectation to the province, that this part of His Majesty's revenues would be continued to be applied to the defraying of their civil expenses, and that to take from them this source of revenue without their assent, or without providing an equivalent, would be an infringement of what they might fairly consider a pledge or assurance on the part of the Crown.

We are not aware that His Majesty can in any way give to the province an equivalent out of any other of his revenues, to supply the deficiency that would arise from changing the tenure of the lands from that of *seigneurie* to free and common soccage; and if any source of revenue to be so applied is to be created in the province, it must be by a legislative act; and the consent of the province to an abolition of the *droit de quint* could only be manifested by such an act, or by an address of the two houses to His Majesty for that purpose.

We think therefore that, though His Majesty is not precluded in point of law by Lord Dorchester's message from changing the tenure of the lands, yet that such change of tenure without the consent of the provincial legislature, expressed as before mentioned, or without an equivalent provided, would be an infringement of the pledge given by the government in that message, and that in that point of view His Majesty is precluded, without such consent or equivalent, from so changing the tenure of the lands.

We have the honour, &c., S. SHEPHERD.
R. GIFFORD.

To the Right Honourable Earl Bathurst.

SERJEANT'S INN, *1st August* 1817.

No. 80. Extracts from the Canada Trade Act of 1822.[1]

3 George IV. c. 119.

AN Act to regulate the trade of the provinces of Lower and Upper Canada, and for other purposes relating to the said provinces. . . .

XXXI. And whereas doubts have been entertained whether the tenure of lands within the said provinces of Upper and Lower Canada holden in fief and seigniory can legally be changed: and whereas it may materially tend to the improvement of such lands, and to the general advantage of the said provinces, that such tenures may henceforth be changed in manner hereinafter mentioned;

Lands held in fief and seigniory may, on petition of the owners to His Majesty, &c., be changed to the tenure of free and common soccage.

Be it therefore further enacted and declared, that if any person or persons holding any lands in the said provinces of Lower and Upper Canada,

[1] The greater part of this enactment deals with various questions concerning colonial trade and finances.

or either of them, in fief and seigniory, and having legal power and authority to alienate the same, shall, at any time from and after the commencement of this Act, surrender the same into the hands of His Majesty, his heirs or successors, and shall, by petition to His Majesty, or to the governor, lieutenant-governor, or person administering the government of the province, in which the land so holden shall be situate, set forth that he, she, or they, is, or are, desirous of holding the same in free and common soccage, such governor, lieutenant-governor, or such person administering the government of such province as aforesaid, in pursuance of His Majesty's intructions transmitted through his principal secretary of state for colonial affairs, and by and with the advice and consent of the executive council of such province, shall cause a fresh grant to be made to such person or persons of such lands, to be holden in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of Great Britain called England; subject nevertheless to payment to His Majesty, by such grantee or grantees, of such sum or sums of money, as and for a commutation for the fines and other dues which would have been payable to His Majesty under the original tenure and to such conditions as to His Majesty, or to the said governor, lieutenant-governor, or person administering the government as aforesaid, shall seem just and reasonable; Provided always, that on any such fresh grant being made as aforesaid, no allotment or appropriation of lands for the support and maintenance of a Protestant clergy shall be necessary; but every such fresh grant shall be valid and effectual without any specification of lands for the purpose aforesaid; any law or statute to the contrary thereof in anywise notwithstanding.

XXXII. And be it further enacted, That it shall and may be lawful for His Majesty, his heirs and successors, to commute with any person holding lands at *cens et rentes* in any

censive or fief of His Majesty within either of the said provinces, and such person may obtain a release from His Majesty of all feudal rights arising by reason of such tenure, and receive a grant from His Majesty, his heirs or successors, in free and common soccage, upon payment to His Majesty of such sum of money as His Majesty, his heirs or successors, may deem to be just and reasonable, by reason of the release and grant aforesaid; and all such sums of money as shall be paid upon any commutations made by virtue of this Act, shall be applied towards the administration of justice, and the support of the civil government of the said province. . . .

His Majesty may commute with persons holding lands at *cens et rentes*.

No. 81. Extracts from the Canada Trade and Tenures Act of 1825.

6 George IV. c. 59.

An Act to provide for the extinction of feudal and seigniorial rights and burthens on lands held *à titre de fief* and *à titre de cens*, in the province of Lower Canada; and for the gradual conversion of these tenures into the tenure of free and common soccage; and for other purposes relating to the said province.

Whereas in and by an Act passed in the third year of His Majesty's reign, intituled: *An Act to regulate the trade of the provinces of Lower and Upper Canada, and for other purposes relating to the said provinces*,[1] certain provisions were made for a change of the tenure of lands held in fief and seigniory, and also for the change of the tenure of lands held at *cens et rentes*, in the *censive* of His Majesty in the provinces of Lower and Upper Canada; and whereas the said provisions, in so far

[1] Printed above, pp. 290–292.

as they relate to the change of tenure of lands in fief and seigniory, cannot, in the said province of Lower Canada, receive execution where such lands, or parts thereof, have, under grants of the seigniories, become the property of persons who hold the same *à titre de fief*, in *arrière-fief* or *à titre de cens:* and further provision in this behalf is necessary: Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, That whenever any person or persons, holding of His Majesty as proprietor or proprietors of any fief or seigniory in the said province of Lower Canada, and having legally the power of alienating the same, in which fief or seigniory lands have been granted and are held *à titre de fief*, in *arrière-fief* or *à titre de cens*, shall by petition to the King, through the governor, lieutenant-governor, or person administering the government of the said province, apply for a commutation of and release from the *droit de quint*, the *droit de relief*, or other feudal burthens due to His Majesty on such fief or seigniory, and shall surrender into the hands of His Majesty, his heirs or successors, all such parts and parcels of such fief or seigniory as shall remain and be in his possession ungranted, and shall not be held as aforesaid *à titre de fief*, in *arrière-fief* or *à titre de cens*, it shall and may be lawful for His Majesty, or for such governor, lieutenant-governor, or person administering the government as aforesaid, in pursuance of His Majesty's instructions transmitted through one of his principal secretaries of state, by and with the advice of the executive council of the said province, to commute the *droit de quint*, the *droit de relief*, and all other feudal rights and burthens due to His Majesty upon or in respect of such fief or seigniory, for such sum of money or consideration, and

Persons holding fiefs or seigniories may, on application to His Majesty, and on surrender of the ungranted parts thereof, obtain a commutation and release of feudal burthens due to His Majesty thereon.

upon such terms and conditions, as to His Majesty, or to such governor, lieutenant-governor, or person administering the government as aforesaid, in pursuance of such instructions, and by and with such advice as aforesaid, shall appear meet and expedient; and thereupon to release the person or persons so applying, his, her, and their heirs and assigns, and all and every the lands comprised in such fief or seigniory from the said *droit de quint*, *droit de relief*, and all other feudal burthens due or to grow due thereupon to His Majesty, his heirs, or successors, of whatsoever nature or kind, for ever; and to cause a fresh grant to be made to the person or persons, so applying, of all such parts and parcels of such fief or seigniory as shall as aforesaid remain, and be in his, her, or their possession ungranted, and which shall not be held *à titre de fief*, in *arrière-fief*, as aforesaid, or *à titre de cens*, to be thenceforward holden in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of Great Britain called England, without it being necessary for the validity of such grant, that any allotment or appropriation of lands for the support and maintenance of a Protestant clergy should be therein made; any law or statute to the contrary thereof notwithstanding.

Such fief or seigniory may be regranted to the proprietor in free and common soccage.

II. Provided always, and be it further enacted, That where such fresh grant as aforesaid shall be made, nothing in this Act contained shall extend or be construed to extend, to take away, diminish, alter, or in any manner or way affect the feudal, seigniorial, or other rights of the seignior or person in whose favour such grant shall be made, upon and in respect of all and every the lands held of him *à titre de cens*, or *à titre de fief*, or in *arrière-fief*, as aforesaid, making part of his, her, or their fief or seigniory,

Feudal and seigniorial rights on the granted parts of such seigniory not to be affected until a commutation thereof shall be obtained as hereinafter provided.

on which a commutation of the *droit de quint*, or *droit de relief*, shall have been obtained as aforesaid, but that all and every such feudal, seigniorial, and other rights shall continue and remain in full force upon and in respect of such lands so held *à titre de fief*, in *arrière-fief*, as aforesaid, or *à titre de cens*, and the proprietors and holders of the same, as if such commutation or grant had not been made, until a commutation, release, and extinguishment thereof shall have been obtained in the manner hereinafter mentioned.

Persons holding lands in fief and obtaining a commutation as aforesaid, shall be bound to grant the like commutation to those holding under them if required.

III. And be it further enacted, That in all cases where any seignior or seigniors, or person or persons holding lands *à titre de fief* in the said province of Lower Canada, shall by reason or means of a commutation with His Majesty, or of a surrender of his, her, or their fief or seigniory, or any part thereof, to His Majesty, or by reason or means of a commutation with his or their immediate superior lord or seignior, or otherwise howsoever, have obtained, or shall or may hereafter obtain, for himself, herself, or themselves, his, her, or their heirs or assigns, from His Majesty, or from the governor, lieutenant-governor, or person administering the government of the said province of Lower Canada, or from his, her, or their immediate superior lord or seignior, a release from and extinguishment of the *droit de quint*, or *droit de relief*, due and payable by him, her, or them, his, her, or their heirs and assigns, for or in respect of lands so held *à titre de fief*, such seignior or seigniors, person or persons aforesaid, his, her, and their heirs and assigns, shall be held and bound when thereunto required by any of his, her, or their *censitaires*, or the persons who now hold or hereafter may hold the said lands, or any of them, or any part thereof, *à titre de fief*, in *arrière-fief* as aforesaid, or *à titre de cens*, to consent to, grant and allow to and in favour of such *censi-*

taires, or other person or persons as aforesaid, requiring the same, a commutation, release, and extinguishment of and from the *droit de quint* and *droit de relief*, or *droit de lods et ventes*, as the case may be, and all other feudal and seigniorial rights and burthens to which such *censitaire* or other person or persons, his or their heirs and assigns, and his and their lands so held by him or them, may be subject or liable to such seignior or seigniors, person or persons aforesaid, his, her, or their heirs and assigns, for a just and reasonable price, indemnity, or consideration, to be paid for the same, which price, indemnity, or consideration, in case the parties concerned therein shall differ respecting the same, shall be ascertained and fixed by *experts* to be in that behalf nominated and appointed, according to the due course of law in the said province of Lower Canada, regard being had to the value of the said lands so held *à titre de cens* or *à titre de fief*, in *arrière-fief* as aforesaid.

IV. And be it further enacted, That if any seignior or seigniors, person or persons holding lands *à titre de fief*, who shall so as aforesaid have obtained a release of and from the *droit de quint*, or *droit de relief*, shall when thereunto required by any person or persons holding any of the said lands *à titre de fief*, in *arrière-fief*, or by any *censitaire* or *censitaires* holding any of the said lands *à titre de cens* as aforesaid, upon the payment or lawful tender of the price, indemnity, or consideration in that behalf hereinbefore provided, refuse or neglect to consent and allow to and in favour of such person or persons holding such lands *à titre de fief*, in *arrière-fief*, as aforesaid, or of such *censitaire* or *censitaires*, a commutation, release, and extinguishment of the *droit de quint* and *droit de relief*, or of the *droit de cens* and *droit de lods et ventes*, as the case may be, and of all other feudal and seigniorial rights and burthens as aforesaid, or shall refuse or neglect to join in the nomination of experts, to ascertain and fix the price, indemnity, or con-

sideration to be paid for such commutation, release, and extinguishment, or shall refuse or neglect to make and execute, to and in favour of such person or persons holding such lands *à titre de fief*, in *arrière-fief* as aforesaid, such *censitaire* or *censitaires*, as the case may be, an instrument in writing before two notaries, or a notary and two witnesses, containing such commutation, release, and extinguishment as aforesaid, it shall and may be lawful to and for such person or persons holding such lands *à titre de fief*, in *arrière-fief* as aforesaid, or for such *censitaire* or *censitaires*, as the case may be, to implead such seignior or seigniors, person or persons as aforesaid, in any of His Majesty's courts of competent jurisdiction in the said province of Lower Canada, for the purpose of compelling him or them to accept the price, indemnity, or consideration hereinbefore provided, to be ascertained and fixed as aforesaid, for the commutation, release, and extinguishment of the *droit de quint*, and *droit de relief*, or *droit de cens* and *droit de lods et ventes*, as the case may be, and of all other feudal and seigniorial rights and burthens required and demanded by such *censitaire* or *censitaires*, or other person or persons as aforesaid, and to obtain the full and entire benefit of such commutation, release, and extinguishment, and upon the payment or lawful tender and deposit of the price, indemnity, or consideration payable by such person or persons as aforesaid, or such *censitaire* or *censitaires*, in the hands of the protho-notary or clerk of the said court, for the use of the said seignior or seigniors, person or persons so impleaded as aforesaid in such court, it shall and may be lawful for the said court, and the said court is hereby required, by their judgment in that behalf, to award and adjudge to such person or persons as aforesaid, or to such *censitaire* or *censitaires*, the benefit of such commutation, release, or extinguishment, for and in respect of the lands for which such payment or tender and deposit shall have been made, as fully and effectually, to all intents and purposes whatsoever, as if such commutation,

release, and extinguishment had been voluntarily consented to be granted and allowed by the said seignior or seigniors, person or persons so impleaded as aforesaid.

V. And be it further enacted, That in all cases where such commutation, release, and extinguishment as aforesaid shall have been voluntarily agreed upon by and between any seignior or seigniors, person or persons holding lands *à titre de fief*, who shall have obtained a release of the *droit de quint*, or *droit de relief*, as aforesaid, and his or their *censitaire* or *censitaires*, or other person or persons as aforesaid, in and by any written agreement or instrument in writing, executed before two notaries, or a notary and two witnesses, and also in all cases where such commutation, release, and extinguishment shall have been declared awarded, and adjudged by any court of competent jurisdiction, by their judgment in that behalf as aforesaid, in favour of any person or persons as aforesaid, or any *censitaire* or *censitaires*, against his, her, or their seignior or seigniors impleaded as aforesaid, all and every *droit de quint*, and *droit de relief*, *droit de cens*, and *droit de lods et ventes*, and mutation fine of every description, *droit de retrait*, *censuel*, and *conventionel*, *droit de banalité*, *droit de corvée*, and every feudal and seigniorial right and burthen whatsoever, upon or in respect of the lands for which such commutation, release, and extinguishment shall have been agreed upon, declared, awarded, or adjudged as aforesaid, shall from and after the making of such agreement or instrument in writing, or the rendering of such judgment as aforesaid, be absolutely and for ever taken away, extinguished, and discharged, as well in respect of such *censitaire* and *censitaires*, or other person or persons as aforesaid, his, her, and their heirs and assigns, as in respect of the said lands; and the tenure of the said lands shall thenceforth be converted into free and common soccage, and the said lands be held and be taken and considered to be held in free and common soccage, in like manner as lands are

holden in free and common soccage in that part of Great Britain called England, any law, usage, or custom to the contrary notwithstanding.

VI. Provided always, and be it further enacted, That nothing herein contained shall extend or be construed to extend to discharge any arrears of *cens et rentes* or any *lods et ventes*, or dues that may have accrued before such commutation as aforesaid shall have been required by any *censitaire* or *censitaires*, or in any wise to destroy, alter, or affect the recourse which the seignior or seigniors to whom such arrears, *lods et ventes*, or rights, shall be due, might lawfully have had or taken for the recovery of the same, if such commutation had not been made. . . .[1]

Nothing herein contained to extend to discharge arrears.

No. 82. Correspondence between Earl Bathurst and Governor Dalhousie with reference to the carrying into effect of the Canada Trade and Tenures Act, August, 1825, to October, 1826.

Canadian Archives, Series G, XIV. 98.

DOWNING STREET, *August* 12, 1825.

MY LORD,

I have the honour to enclose, for Your Lordship's perusal, an act passed in the last session of Parliament, to provide for the extinction of feudal services in the province of Lower Canada, and I have especially to direct Your Lordship's attention to the first clause of the act, by which His Majesty is enabled, by instructions to be communicated to the governor of the province, through the secretary of state, to

[1] The remaining sections of the act relate to the machinery to be provided for carrying into effect the purpose of the measure.

fix the consideration, terms, and conditions upon which the commutation of the feudal rights of the Crown is to be made.[1]

I have also the honour to enclose for Your Lordship's perusal the draft of a proclamation, fixing the terms upon which it is proposed that these commutations shall be carried into effect, and I am to instruct Your Lordship to cause this proclamation to be published in the province, in whatever manner may be best adapted for insuring the general publicity of it.

You will observe that it is intended to accept from the seigniors, as the price of commutation, five per cent on the value of the seigniory, and in cases where the seigneur and the local government may not be able to agree as to the value of the entire seigniory, it is intended to leave that question to the decision of experts. Probably this price may not be a full equivalent for the rights of the Crown, but Your Lordship will readily understand that, in advising the King to accept terms which might in one sense be considered as unfavourable, my object has been to hold out an inducement to the seigniors to carry into effect a change of tenure from which much considerable public advantage may be anticipated.

If Your Lordship, however, bearing in mind these liberal intentions of His Majesty's government, shall nevertheless see cause to disapprove of the proposed terms, you will, without loss of time, report the objections which occur to you, and in the meantime you will consider yourself authorised to withhold the proclamation.

If, on the contrary, Your Lordship should deem the proclamation unobjectionable in substance, any alteration in its style or language, which yourself or the attorney-general of the province may judge necessary or convenient, may be made without further reference to me.—I am, &c.,

Lieutenant-General the Earl of Dalhousie. BATHURST.

[1] Printed above, pp. 292–299.

Canadian Archives, Series P, CXXXIII–IV. 6.

QUEBEC, *June* 19, 1826.

MY LORD,

I have the honour to inform your Lordship that, pursuant to the instructions contained in Your Lordship's despatch respecting the measures to be taken by the provincial government for carrying into effect the acts relating to the change of tenure of seigniorial lands, I have, with the advice of the executive council, issued the proclamation of which Your Lordship transmitted me the draft, with such alterations in points of form as were necessary, and with the addition of a clause requiring those who should come forward to avail themselves of the terms offered by the proclamation, to show that they had discharged all arrears of feudal dues to His Majesty.[1]

There are now several applications before me for commutation of tenure of houses and lots in Quebec, but it will probably be a considerable time before the proprietors of seigniories will come forward to avail themselves of the benefit of this measure. I have no doubt that the liberality of the terms fixed for the commutation, as between the Crown and the seignior, will be generally appreciated; but I think it my duty to state to Your Lordship, that it has been represented to me by persons well acquainted with the subject, that the liberality of the Crown in this respect may of itself indirectly tend to keep back the seignior from asking for a change of tenure, and may thus defeat or retard the accomplishment of the views of His Majesty's government. For it is said that, as the act lately passed makes it compulsory on the seignior, who shall have obtained from the Crown a commutation of his tenure, to grant the like commutation to his vassal, on payment of a compensation to be fixed by experts or arbitrators; and as one at least of these experts (the one to be named by

[1] This proclamation, as promulgated, is printed below, pp. 304–308.

the vassal), will of course be from that class of people whose interest it will be to keep the rate of compensation to the seignior as low as possible, the seignior will be deterred from putting himself in the situation of being compelled to go to such arbitration, in which the extremely low and easy terms already granted to him by the Crown would be taken as the measure of that compensation which he should himself receive from his vassal.

This view of the subject was not suggested to me until after the proclamation was issued, and I now submit it for Your Lordship's consideration and decision.

I think it right also to inform Your Lordship that, although upon the recommendation of the executive council, I have adopted the same scale of compensation with respect to houses in town, which the proclamation fixes with respect to seigniorial lands in the country, and have accordingly acted upon this recommendation in the cases of applications now pending for a commutation of tenure of houses in Quebec; I have forborne to issue any proclamation upon the subject, in consequence of suggestions which I have received from several quarters, that so small a compensation in such cases is a sacrifice on the part of the Crown, not necessary to the success of the measure, and that it should be fixed at a rate considerably higher than on a change of tenure of seigniorial lands, inasmuch as houses and property in towns change owners much more frequently than mere landed property in the country, and the surrender of the feudal dues is, of course, a much greater sacrifice in the former case than in the latter. Not conceiving it to be Your Lordship's intention to give up the advantages now accruing to the Crown to any greater extent than may be necessary to encourage proprietors to avail themselves of the benefits held out to them, I beg to be favoured with Your Lordship's instructions on the point I have last stated.—I have the honour, &c., DALHOUSIE.

The Earl Bathurst, &c.

Canadian Archives, Series G, XV. 158.

DOWNING STREET, *August* 31, 1826.

MY LORD,

I have the honour to acknowledge the receipt of Your Lordship's despatch of the 19th June last, requesting to be furnished with instructions as to the rate of compensation to be paid to the Crown on the change of tenure of houses, &c., in towns, and stating that it has been represented to you that it would be proper to charge a rate considerably higher than on the change of tenure of seigniorial lands. I have to acquaint Your Lordship in reply, that I am decidedly of opinion that a higher rate should be fixed with respect to the commutation of tenure of houses, and that double the amount which the proclamation fixes with respect to seigniorial lands in the country would only be a moderate charge to proprietors of houses, who may avail themselves of this measure.—I have the honour, &c., BATHURST.

Lieutenant-General the Earl of Dalhousie, &c.

Ibid., 251.

DOWNING STREET, *October* 30, 1826.

MY LORD,

In the view of carrying into effect the provisions of the acts of Parliament (3 Geo. IV. cap. 119 and 6 Geo. IV. cap. 59,[1]) which contemplate the entire extinction of the feudal tenure in Lower Canada, I am to instruct Your Lordship that whenever it may be necessary to grant any part of the unoccupied waste lands comprised or supposed to be contained within the limits of the seigniories in the possession of the Crown, Your Lordship will direct that the patents conveying the land so granted do expressly declare that the same are to be held under the tenure of free and common soccage, liable only to

[1] Above, pp. 290–299.

similar reservations of mines, minerals, timber, &c., as are contained in the patents granting waste lands in the townships of the province.—I have, &c., BATHURST.

Lieutenant-General the Earl of Dalhousie, &c.

No. 83. Proclamation of Governor Dalhousie making Regulations for the Voluntary Commutation of Lands held under the Seigniorial Tenure, April 14, 1826.

Edicts and Ordinances Relative to the Seigniorial Tenure, 300–302.

Dalhousie, Governor.

WHEREAS by an act of the Parliament of our United Kingdom of Great Britain and Ireland, passed in the sixth year of our reign, intituled: "An Act to provide for the extinction of feudal and seigniorial rights and burthens on lands held *à titre de fief* and *à titre de cens* in the province of Lower Canada, and for the gradual conversion of those tenures into the tenure of free and common soccage, and for other purposes relating to the said province," it is amongst other things enacted:

"That whenever any person or persons holding of us, as proprietor or proprietors, any fief or seigniory in the said province of Lower Canada, and having legally the power of alienating the same, in which fief or seigniory lands have been granted and are held *à titre de fief*, in *arrière-fief*, or *à titre de cens*, shall by petition to us through the governor, lieutenant-governor, or person administering the government of our said province, apply for a commutation of and release from the *droit de quint*, the *droit de relief*, or other feudal burdens due to us on such fief or seigniory, and shall surrender into the hands of us, our heirs or successors, all such parts and parcels of

such fief or seigniory as shall remain and be in his possession ungranted, and shall not be held, as aforesaid, *à titre de fief*, in *arrière-fief*, or *à titre de cens*, it shall and may be lawful for us, or for such governor, lieutenant-governor, or person administering the government as aforesaid, in pursuance of our instructions transmitted through one of our principal secretaries of state, by and with the advice of the executive council of the said province, to commute the *droit de quint*, the *droit de relief*, and all other feudal rights and burthens due to us upon or in respect of such fief or seigniory, for such sum of money or consideration, and upon such terms and conditions as to us, or to such governor, lieutenant-governor, or person administering the government as aforesaid, in pursuance of such instructions, and by and with such advice as aforesaid, shall appear meet and expedient, and thereupon to release the person or persons so applying, his, her, or their heirs and assigns, and all and every the lands comprised in such fief or seigniory, from the said *droit de quint*, *droit de relief*, and all other feudal burthens due or to grow due thereupon to us, our heirs or successors, of whatsoever nature or kind for ever; and to cause a fresh grant to be made to the person or persons so applying of all such parts and parcels of such fief or seigniory, as shall as aforesaid remain and be in his, her, or their possession ungranted, and which shall not be held *à titre de fief*, in *arrière-fief*, as aforesaid, or *à titre de cens*, to be thenceforward holden in free and common soccage, in like manner as lands are now holden in free and common soccage in that part of Great Britain called England, without it being necessary for the validity of such grant, that any allotment or appropriation of lands for the support and maintenance of a Protestant clergy should be therein made, any law or statute to the contrary thereof notwithstanding."

And whereas in pursuance of the said Act heretofore in part recited, and in execution of the powers thereby in us vested, we have transmitted through the Right Honourable the

Earl Bathurst, one of our principal secretaries of state, having the department of the colonies, to the Right Honourable the Earl of Dalhousie, our captain-general and governor-in-chief in and over our said province of Lower Canada, our royal instructions for and concerning the commutation of the *droit de quint*, *droit de relief*, and all other feudal burthens due to us, whereof the commutation in and by the said Act is provided for, and concerning the sum of money or consideration, terms, and conditions on which such commutation is to be granted and allowed according to the provisions of the said Act;

Know ye, therefore, that, for the purpose of making known our said royal instructions in this behalf, and in order that persons intitled to and desirous of the benefit of the commutation provided for in and by the said Act, in what respects lands held of us *à titre de fief*, may avail themselves of such benefit, we have thought fit, with the advice of our executive council of our said province, to issue this, our royal proclamation, hereby to publish and declare to our loving subjects whom the same may concern, that whenever any person or persons holding of us, as proprietor or proprietors, any fief or seigniory in the said province, and having legally the power of alienating the same, in which fief or seigniory lands have been granted and are held *à titre de fief*, *arrière-fief*, or *à titre de cens*, shall apply for the commutation in and by the said Act provided for, in the manner therein mentioned, and shall actually have paid into the hands of our receiver-general of our said province, a sum of money equal to one-twentieth part of the value of such fief or seigniory; then and in every such case, our governor, lieutenant-governor, or other person administering the government of our said province, shall and will, with the advice of our said executive council in pursuance of our said royal instructions, proceed to commute all and every the *droit de quint*, *droit de relief*, and all other feudal rights and burthens, which thenceforward, if such commutation were not made and granted, would accrue and become due to us upon

and in respect of such fief and seigniory, and release for the future such person or persons, his, her, or their assigns, and all and every the lands comprised in such fief or seigniory from the several burthens aforesaid, and to cause to be made to such person or persons a fresh grant in the manner in and by the said act hereinbefore recited prescribed;

And in case such person or persons as aforesaid should not agree with the governor, lieutenant-governor, or person administering the government of our said province, acting by and with such advice as aforesaid, as to the value of any such fief or seigniory, and the amount of the sum to be paid in consideration of such commutation should not be determined by and between them, then and in every such case, in pursuance of our said royal instructions, we do will and require that our said governor, lieutenant-governor, or person administering the government of our said province, by and with such advice as aforesaid, do concur in the nomination and appointment of *experts* for ascertaining the value of such fief or seigniory, according to the course of law in our said province.

Provided always, and we do hereby declare that such commutation, so to be made and granted as aforesaid, shall not have the effect of extinguishing or affecting the recovery of any *droit de quint*, *droit de relief*, or other feudal rights and burthens, or any arrears thereof, previously accrued and become due to us upon and in respect of the fief or seigniory for which such mutation shall have been granted; but that all such *droit de quint*, *droit de relief*, and other feudal rights and burthens and the arrears thereof so accrued and become due to us before the making and granting of such commutation, shall be recoverable by the same remedies, and in the same manner and form as if such commutation had not been made or granted;

And we do hereby expressly reserve to us, our heirs and successors the power of revoking and altering from time to

time, as occasion may require, the terms and conditions on which commutations are to be granted as aforesaid.

In testimony whereof, we have caused these our letters to be made patent, and the great seal of our said province of Canada hereunto affixed.

Witness our trusty and well-beloved GEORGE, EARL OF DALHOUSIE, Knight Grand Cross of the Most Honourable Military Order of the Bath, our captain-general and governor-in-chief in and over our said province of Lower Canada, vice-admiral of the same, &c. &c. &c.

At our Castle of Saint Lewis, in our city of Quebec, in our said province, the fourteenth day of April, in the year of our Lord one thousand eight hundred and twenty-six, and in the seventh of our reign. DALHOUSIE.

LOUIS MONTIZAMBERT,
Actg. Prov. Secretary.

No. 84. Report of the Commissioners appointed to Inquire into the State of the Laws and other Circumstances connected with the Seigniorial Tenure, as it obtains in that part of the Province of Canada heretofore Lower Canada, March 29, 1843.[1]

Titles and Documents Relative to the Seigniorial Tenure, II., 45–91.

To His Excellency the Right Honourable Sir Charles Bagot, G.C.B., one of Her Majesty's Most Honourable Privy Council, Governor-General of British North America, and Captain-

[1] The two provinces of Upper and Lower Canada were in 1841 united into a single political unit, with equal representation in a joint legislature. The seigniorial question was of direct interest to Lower Canada only, for in the upper province all lands were held in free and common socage. In the first session of the joint legislature, however, the French-Canadian representatives

General and Governor-in-Chief in and over the Provinces of Canada, Nova Scotia, &c., &c.[1]

May it please Your Excellency,

We, the commissioners appointed by Your Excellency to inquire into the feudal and seigniorial tenure of lands in that part of the province of Canada called Lower Canada, in pursuance of an address of the Honourable the House of Assembly, of the 7th September 1841, have the honour to represent to Your Excellency:

That, in pursuance of the commission appointing us joint commissioners for the purposes therein set forth, and of the instructions accompanying it, we have with all possible diligence, and to the extent of the powers reposed in us, proceeded in the investigation of the subjects submitted for our inquiry.

Before proceeding to submit to Your Excellency the result of our examination of the important subjects which have engaged our attention, we beg to refer Your Excellency to a preliminary report, dated the 28th day of September last, in which we had the honour to inform Your Excellency that, owing to the limited powers conferred on us, it was wholly

brought the question to the notice of the House, which was induced (September 7, 1841) to pass a resolution asking the governor to appoint a commission with power to investigate the existing system of land tenure in Lower Canada and to present some definite plan for the commutation of the ancient tenures. To this request Governor Bagot acceded, naming Messrs. Vanfelson, M'Cord, and Doucet as members of the commission. These three gentlemen declining to serve, however, he appointed in their places Messrs. Buchanan, Taschereau, and Smith. The commission, though hampered by the fact that it had very limited powers to compel the attendance of witnesses and the production of papers, made a careful study of the grievances of the landholders and of the remedies proposed. The results of this study are given in the report here printed.

[1] Sir Charles Bagot, G.C.B., was born in England in 1781, and at an early age entered the English public service, where he rose so rapidly that when only twenty-five years of age he was made under secretary of state for foreign affairs. Later he served with distinction in several important diplomatic posts. In 1842 he was named governor-general of British North America; but his tenure of the post was very brief, for he died in the year following.

out of our power to report on many of the subjects pointed out in our commission, as we possessed no means to compel the attendance of persons, and the productions of papers, essentially requisite for enabling us to lay before Your Excellency correct information touching many of the subjects of our investigation, and, in fact, that full and satisfactory information, on some parts of the subject, which the Honourable the House of Assembly had a desire to obtain, as expressed in our commission.

Since that period, we have been honoured by a communication from the Honourable Mr. Secretary Daly,[1] by the command of Your Excellency, informing us that the powers adverted to in our preliminary report can only be conferred by Parliament, and requiring us to transmit to Your Excellency the result of our investigations under the limited powers conferred on us.

We therefore respectfully beg leave to submit, for Your Excellency's consideration, this our report, containing our views on the momentous subjects proposed for inquiry, and exhibiting the nature and extent of such information on those topics as we have been enabled to procure.

The several matters submitted for inquiry by our commission may, for the sake of perspicuity and more easy elucidation, be arranged under the following heads:—

1st.—To make the necessary examination and search into all public records and notarial acts, from the time of the settlement of the country, and to establish, for several distinct periods, the true conditions on which grants of land in seigniory have been made by the Crown, and on which lands have been conceded *en arrière-fief ou en censive* (*roture*), and

[1] Sir Dominick Daly was born in Galway in 1798, and came to Canada as private secretary to one of the governors. Remaining in the colony, he became provincial secretary for Lower Canada, and after the union held this post in the government of the United Provinces. He returned to England in 1851.

to collect all other requisite information connected with the said subject, and to inquire into the laws which have from time to time governed and now govern the said tenures.

2nd.—To inquire generally into the present working of the system, by proper investigations into every section of Lower Canada, in a number of seigniories indifferently chosen, for the purpose of ascertaining, as far as possible, the present rents, dues, reservations, and charges of any kind.

3rd.—The probable quantity of unconceded seigniorial lands in the province, and their quality and value, and also the quantity of land conceded but not improved.

The value of seigniorial mills in the province.

The annual average value of *lods et ventes* paid or accruing thereon.

Lastly.—To consult the seigniors and *censitaires* respectively, upon the most proper and equitable means of effecting by law a commutation of the seigniorial and feudal tenures (such commutation being founded upon a due regard to the rights and interests of all parties), and also of the most proper means of effecting an arbitration in cases where it may be required.

Upon the first subject :—

Having had the advantage of consulting a great number of grants of seigniories in this province, as well from the *Compagnie de la Nouvelle-France*, as from the Crown, from the earliest period down to the conquest of the colony, we have found that, although the settlement of Canada under the French Crown was, as to the tenure of land, established upon the feudal system, and although military service, necessarily for the purposes of defence, did exist in the colony, yet this obligation was not an express condition in those grants, nor was the seignior invested with many of the odious and offensive rights and privileges which characterise the feudal lords in Europe.

The colonists having emigrated from that part of the

mother country in which the customary law prevailed, where the principle, as to land, of *nulle terre sans seigneur* was recognised, it was natural that a like tenure should be introduced to regulate the rights and obligations of those who should become possessed of the soil, modified, however, by reason of the different circumstances which marked, and the opposite spirit and sentiments which animated, the establishment of the feudal relations in France and in this country—in the one, the motives being the love of conquest and military glory; in the other, the pacific diffusion of civilisation and of the light of the Gospel.

It will thus appear, that many of the earliest grants were made to religious bodies, and were avowedly bestowed on them for the purpose of reclaiming the natives from barbarism and converting them to Christianity.

Under this tenure the superior lords and immediate grantees of the Crown exercised some sovereign powers within the limits of their seigniories.

They held the power of *haute*, *moyenne et basse justice*,[1] and all the privileges appertaining thereto, which comprised the holding of courts of justice, yielding certain emoluments, the rights to all confiscated or forfeited estates, the right of all property escheating *pro defectu haeredum*, or from other causes, and to all waifs, estrays, and treasure trove.

The exclusive rights of trading with the Indians, and of fishing and hunting within the limits of the fief, was also expressly conferred on the grantee.

In this way, large tracts of land were granted by the Crown, or by the *Compagnie de la Nouvelle-France* while it held this country *en fief et seigneurie*, upon the condition of the performance of certain services and obligations which we shall now proceed to consider.

[1] For the precise limits of these three degrees of judicial power, see Doutre and Lareau, *Histoire générale du droit canadien*, 133–136. See also above, p. 263, note 2.

With but very few exceptions these feudal grants were made subject to the provisions of the Custom of Paris, and imposed on the grantee the obligation of performing fealty and homage to the King, or his representative at the Castle of St. Lewis, in Quebec,—of making his *aveu et dénombrement*, that is to say, to render a true statement of his title, the extent of his fief, setting forth his dependencies and prerogatives,—whether he had a right to hold court of justice, of the amount of fees incidental to his jurisdiction, of the fines and other rights to which he was entitled; of his manor-house, the lands of his domain, the quantity and quality of his arable, meadow, pasture, and wood-lands, the revenue of his domain, and the improvements and buildings on his domain, the annual amount of the *cens et rentes* and other dues, with the number and names of his *censitaires* or others subjected to pay rent to him, and the extent of the concessions, the rights and services he owed on account of his fief, whether he had the right of compelling suit at his mill, and a particular designation of the *arrière-fiefs* or subinfeudations; how he became possessed of his fief or seigniory, whether by succession in the direct or collateral line; by purchase, gift, or otherwise.

The only pecuniary right due under the Custom of Paris, by the vassal to the Crown, is the *quint*, which is the fifth part of the price of sale of the fief or seigniory accruing upon every mutation of ownership of the fief, by sale or contract equivalent to sale (but not in case of succession and donation in the direct line), and payable to the Crown by the purchaser on his rendering fealty and homage.

In all cases of collateral inheritance, or of legacy or donation to collateral relations or strangers, the Custom of Paris gave to the Crown one year's revenue (*relief*) of the fief; but this right has not been claimed or enforced in this colony.

It is however to be observed regarding lands governed by the Custom of *Vexin le Français*, under which custom some

few grants were made at a remote period, and one year's gross revenue of the estate was payable instead of the *quint*, and thus under every change of ownership without any exception.

It was competent to the Crown to exercise the right of pre-emption, *retrait*, or *jus retractum*, within forty days after notice of the sale, upon reimbursing to the purchaser the price and all the costs and charges.

These may be considered to be the legal and inherent conditions of the grants of most of the fiefs and seigniories.

But there were some few seigniories, granted by the India Company and the *Compagnie de la Nouvelle-France*, under less onerous conditions than those arising from the Custom of Paris, such as the payment of a medal of half an ounce or one ounce of gold (*une maille d'or*) to the Company in lieu of the *quint*. The fief of Beauport was granted on this condition in the year 1675.[1]

In addition to the grants in fief and seigniory above mentioned, it may be observed that there are two instances of grants, *en franc aleu noble*, made by the French Crown to the Order of the Jesuits, viz., Charlebourg in the District of Quebec,[2] and another in Three Rivers.[3]

The above obligations may be considered to be inherent in every grant from the Crown, and imposed upon all feudatories under the Custom of Paris.

But, independently of these legal burthens the grants from the Crown appear, for the most part, to have contained the most specific reservations and conditions:—

1st.—The obligation to do fealty and homage.

2nd.—Payment of the usual rights and dues according to the Custom.

[1] The date is incorrect; Beauport was granted to Robert Giffard on January 15, 1634. The title-deed is printed above, pp. 7–9.

[2] *Titres des Seigneuries*, 54 (January 15, 1637).

[3] This was the little fief of Pachiriny, so called after an Algonquin Indian who had first settled on it. See *Titres des Seigneuries*, 70 (February 15, 1634).

3rd.—The preservation of all oak timber for the construction of His Majesty's ships.

4th.—To make known to the King the discovery of all mines, ores, and minerals.

5th.—That appeals from the seigniorial courts should be made to the provostship of Quebec.

6th.—To build a habitation on the land and to dwell there, *tenir feu et lieu*, and to cause his *sub-feudataires* and tenants to do the same.

7th.—To clear and settle the land or cause it to be cleared and settled without delay.

8th.—To suffer all roads necessary for public utility to be made.

9th.—To concede to tenants, *à titre de redevances*, lands of not less extent than one arpent in front by thirty or forty in depth, and to insert similar clauses in their concessions to their *sub-feudataires* and tenants.

10th.—To permit the beaches to be free for all fishermen, with exception of such part as the seignior should have occasion to use for his own fishery.

11th.—To suffer the occupation, by the Crown, of all land necessary for the construction of forts, batteries, and public works for the use of the King, together with the right of taking all the timber necessary for the construction thereof, and firewood for the garrison, and this without entitling the grantee to any indemnity.

In some of the grants from the Crown of more recent date, that is after the year 1711, it was made a stipulation that the seigniors should concede to their tenants at the accustomed rents and dues, *cens et rentes et redevances accoutumés.*

These conditions, charges, and reservations are contained in almost all the grants from the Crown, some of them being essential to the seigniorial tenure itself, and others rendered expedient for promoting the speedy settlement of the country and advancing its prosperity.

Apart from those regulated by the Custom of Paris, partially brought into force on the first settlement of the country, and universally adopted after the surrender by the Company of New France of its rights to the Crown, the other above-mentioned conditions and obligations were more clearly defined, reiterated, and enforced by the edicts and ordinances of the French kings promulgated from time to time, according to the exigencies of the colony.

The latter remarks we will particularly apply to all grants and concessions made by the French Crown after the surrender to it, by the Company of New France, of all its rights and territory, and the erection of the *Conseil Supérieur* at Quebec, under the edict of 1663, which grants were all made according to the Custom of Paris.

The obligations to grant out the land to applicants, in suitable parcels, is a permanent feature of all the grants by the Crown after 1663,[1] and in conjunction with contemporaneous legislative measures hereafter mentioned, evinces how anxiously and perseveringly the French government pursued its policy of rapidly extending the settlement of the colony, and of diffusing its population over a large surface.

It was incumbent on the seignior to parcel out his fief to settlers, reserving a mere *reditus* or rent; he was bound to commence and effect the settlement of his territory within a certain limited period, in default of which his estate escheated to the Crown. The views and intentions of the French government in this respect may be gathered from two edicts or declarations of the King, the first of which is dated in March 1663, immediately after the surrender by the *Compagnie ae la Nouvelle-France* of its rights to the Crown, by which all grants whereon no settlement had been made were cancelled and revoked[2]; and the second in June 1675, by which all

[1] The duty of subgranting seigniorial lands did not appear as an "obligation" in the title-deeds until after the issue of the arrêt of 1711. *Cf.* also above, p. 256, note 1.

[2] Printed above, pp. 12–14.

grants of too great an extent of land were revoked, and the intendant Duchesneau was ordered to make new grants of less extent, to such persons as would undertake to settle on them.[1]

These edicts were followed by the declaration of the King of France, dated in April 1676,[2] granting power to Messieurs de Frontenac and Duchesneau to concede lands for settlement, upon the express condition that such concessions should be laid before the King for confirmation within a year from their dates, and that the lands should be in fact settled and brought under cultivation within the period of six years, otherwise the said grants and concessions should be null and void.

The arrest of the 6th July 1711,[3] the general instructions given to governors of the colony to hasten its settlement, and the more specific and stringent obligation, imposed in subsequent grants of fiefs, to settle and concede hereafter referred to, manifest a continuance of the same policy in the Crown of France.

From these edicts, arrests, and ordinances, it appears obvious that, although the granting of lands by the Crown, under the feudal and seigniorial tenure, may in the first instance be considered to have been attended with the creation or introduction of the rights, immunities, and advantages incident to that tenure as it existed in France, yet, by means of these legislative measures, made while that system of proprietary relations was developing in the colony, and of the terms of the grants themselves, the respective rights and obligations of the seignior and vassal underwent much modification, and express enactments defined the exact nature and extent of the rights of the grantees of the Crown, and the obligations by them assumed upon their investiture with their several possessions.

In truth, the modifications so effected restored the tenure, as between the lord and vassal, to the condition in which it

[1] *Édits et Ordonnances*, I. 81.

[2] The date should be May 20. See above, pp. 41–42.

[3] Above, pp. 91–93.

appears to have existed at an early age in the parent country, when the protective colonial policy of the Roman Empire, under nearly similar relations, was adopted by the Frank conquerors, and incorporated in their system of law.

These provisions we shall have occasion to use more at length when we come to treat of that branch of the subject which more particularly concerns the duty of the seignior to concede lands within his fief.

Generally speaking, the conditions contained in the grants from the Crown, whereby the seigniors are required to concede lands to applicants, are not marked by any essential difference; but there are a few which contain an express declaration that the grantees should concede at the usual and accustomed rates, *cens et rentes et redevances accoutumés*, and in one particular instance, namely that of the royal grant to the Seminary of Montreal of the seigniory of the Lake of Two Mountains, dated 17th October 1717,[1] the rate at which every concession shall be made is prescribed, viz., twenty *sols* and a capon for each arpent in front by forty arpents in depth, and six *deniers* (a farthing).

This is the only instance which has come to our knowledge, after a most diligent search, of specifications in the royal grants of the rate of *cens et rentes* at which the seignior shall be bound to concede his lands.

The conditions upon which grants from the Crown were usually made have thus been pointed out, at least as to such as were expressly contained in the royal grants, or were imposed by the Custom of Paris, under the influence of which those grants were made; but, in order the more justly to appreciate the spirit of the essential terms upon which seigniors were bound to concede their lands to applicants, constituting a prominent object of our inquiry, it becomes necessary to consider somewhat at large the legal enactments touching

[1] *Titres des Seigneuries*, 337.

this obligation to concede, and the judicial decisions interpretative of them.

It appears to us sufficiently obvious that, between the year 1663, when the French Crown became re-invested with full sovereignty over this country, and the year 1711 when the edict hereafter mentioned was promulgated, some of the seigniors had violated the trust reposed in them, by exacting, from the applicants for uncultivated lands, a price, in addition to the usual rent, as consideration for concessions *en roture;* an abuse repugnant to the views and intentions of government, and calculated to retard the settlement of the country.[1]

In our estimation, the royal grants involved a trust to re-grant such of the lands as might be in an uncultivated state, *en boit de bout*, in parcels, to actual settlers, upon certain moderate rents, that is, *à simple titre de redevance*, without its being in the power of the seignior to demand any money whatever, in the way of capital for the concession.

This rent, *redevance*, *cens et rentes*, carried with it the right of *lods et ventes*, being a mutation fine levied by the seignior upon every sale of the land or transfer of it equivalent to sale, of one-twelfth of the price or consideration of such conveyance.

This alienation fine is incidental to the seigniorial tenure of land, and is the legal consequence of a recognitive rent, called *cens*, being stipulated or reserved in the deed of concession, and was intended to be a source of revenue to the seignior.

The right of *banalité de moulin*, or paying suit to the lord's mill, is not incidental to the seigniorial tenure under the Custom of Paris,[2] but, in the circumstances of a country under process of colonisation by emigrants unable to bear the expense

[1] On this point, see the despatches of Raudot to Pontchartrain during the years 1707–1708, printed above, pp. 70–87, *passim*.

[2] The Custom of Paris, as codified in 1510, did not contain any reference to the banal right; but, as revised in 1580, it recognised the right of the seignior to the exercise of this privilege whenever he had stipulated for it in the original title-deed (Articles lxxi.–lxxii.).

of erecting mills for their own accommodation, there arose a necessity to provide some means to obviate the evils flowing from this cause, by imposing on the seignior the obligation to build mills, for which they should have the corresponding right of compelling the tenants to carry their grain to be ground there, yielding a certain proportion as toll or multure.

This was effected by the *arrêt* of 4th June 1686,[1] declaring it to be a right of the seignior in the realty, and inseparably attached to his fief and seigniory.

It was, however, provided that this right should be forfeited by the seignior, if a banal mill should not be built within one year after the passing of the said ordinance, and any *censitaire* or other person, on complying with its requirements, was authorised to exercise this privilege.

Under the Custom of Paris, this right was purely conventional, and could only be claimed by the seignior under a title.

Although in France the right of *banalité* extended to mills, ovens, and other matters, it was only exercised in this colony with respect to mills grinding corn.

According to the principles of the common law, and the *arrêts* rendered concerning that matter, this right was restricted to the grinding of the corn consumed within the seigniory, and did not comprise corn ground for exportation, or for use without the limits of the seigniory.[2]

The *arrêt* of the 20th June 1667[3] provided that the toll or *droit de mouture* should be fixed at one-fourteenth of the corn ground at the mills, which was an increase of the rate that obtained under the Custom of Paris.

In all other respects, the law was left as it existed under the jurisdiction of the Parliament of Paris.

[1] Printed above, pp. 61–62.

[2] In Canada the banal right extended only to "grains qu'ils consomment pour la subsistance de leurs familles" (*Édits et Ordonnances*, II. 452). See also *Ibid.*, I. 225, II. 497, III. 119.

[3] *Ibid.*, II. 39.

It was, however, usual to stipulate the right of *banalité* in deeds of concession, but that stipulation did not affect the *arrêt* of the 4th of June 1686, in respect of the obligation of the seignior to build mills, which was frequently enforced.

Upon this point there are many judgments of the intendants vesting the right of *banalité* in *censitaires* when the seignior had neglected to build the mill, or had failed to keep one already built in repair and fit for the wants and uses of the inhabitants.

Among others on this subject may be mentioned the ordinance of the 22nd July 1730,[1] the 18th February 1731,[2] the 10th March 1734,[3] the 13th February 1740,[4] the 11th July 1742,[5] and the 12th February 1746,[6] and an ordinance passed by the *Conseil Supérieur* on the 1st July 1675.[7]

This was the law of the country at the time of the conquest, and which is still in force and effect under the provisions of the 14th George the Third,[8] hereafter cited.

These may be considered to be in truth the only claims of the seignior upon his tenant, sanctioned merely by the law regulating the tenure in this colony, considered apart from special conditions, charges, and reservations provided for in the original grants of the seigniory and in the deeds of concession to the tenants.

The conditions, charges, and reservations expressed in the deeds of concession *en roture*, with the exception of the *reditus* or *cens et rentes*, the rights of *lods et ventes* and *banalité*, are therefore purely conventional and may be considered obligatory on the tenant, unless they are repugnant to some edict, *arrêt*, or ordinance.

What conditions, charges, and reservations may be deemed

[1] *Édits et Ordonnances*, II. 340. [2] *Ibid.*, 519. [3] *Ibid.*, 364.
[4] *Ibid.*, 562. [5] *Ibid.*, 565. [6] *Ibid.*, 578. [7] *Ibid.*, 62.
[8] 14 George III. c. 83. It may be conveniently found in Houston's *Documents illustrative of the Canadian Constitution*, 90–96.

questionable, on the score of legality, will be a matter of discussion in a subsequent part of this section.

With regard to such conditions and reservations in the deeds of concession to *censitaires*, as secure certain advantages to the public, in accordance with the corresponding clauses in the royal grants to the seigniors, no observation appears requisite; they are obviously legitimate and binding on all parties.

By many of the royal grants of seigniories, although not in all cases, it is made imperative on the seigniors to parcel out their fiefs in grants *à titre de redevance*, according to the Custom of Paris.

These *redevances*, in the parts where that Custom prevailed, consisted—

(1) Of the *cens* or *reditus* of one halfpenny, or one penny, recognitive of the lord's seigniorial right, *dominium directum*, and was so essential that, without it, no mutation fines could accrue on changes in the ownership of the land.

(2) Of a moderate rent not essential to the tenure, which was variously payable in money, grain, poultry, or other products.

From the period of the earliest concessions which have come into our hands, made in 1652 by the Jesuits, who held by grants from the Company of New France, down to the year 1663, the date of the surrender by the Company of its rights to the Crown, the rate of *cens et rentes* in the province was nearly uniform.

In the seigniories where the King was the immediate seignior, the rates were fixed at one *sol*, *argent tournois*, or one halfpenny, for every superficial arpent, and a capon or tenpence, at the option of the seignior, for every arpent in front, and one *sol* of *cens*, equal to about six shillings and fourpence halfpenny, for a frontage of three arpents, by a depth of thirty arpents, making ninety arpents in superficies.

This rule would appear to have been much followed during

the aforesaid period, and there is ample evidence to show that, in the District of Quebec particularly, those were the usual and established terms; for we do not find an instance of excess over this rate, while, in some cases, a lower rent was agreed upon.

After the cession by the Company of New France of its rights to the Crown, a number of grants were made by the Crown, chiefly to persons who had served in the King's army and navy, in some of which the concessions are stated to be made in consideration of the services rendered by the grantees.[1]

In these seigniories, comprising, with the exception of the Island of Montreal and one or two others, the most valuable possessions in the District of Montreal, the rents reserved were nearly uniform, being at the rate of about one penny for every superficial arpent, that is to say, from one to two *sols* for every arpent in superficies, and one capon of the value of tenpence, or a half bushel of wheat instead, making, valuing the wheat at that time at two *livres* a bushel, about one penny for every arpent of the concession.

Generally speaking, it may be assumed that, upon a grant of ninety superficial arpents, the rents in the District of Montreal exceeded those in Quebec and Three Rivers by about one-fifth.

This rate prevailed until about the year 1711, when it is observable that some changes had taken place in the conditions and reservations, rendering them more burthensome to the tenants.

These additional charges consisted of reservations of wood growing on land conceded, and the establishment of *corvées*.[2]

[1] See above, pp. 34–36.

[2] The exaction of *corvées* seems to have become general during the period intervening between 1708 and 1716. In Raudot's despatches of the former year (see above, pp. 85–87) no mention is made of the obligation; and in 1716 Bégon asked the minister to have an ordinance issued forbidding the exaction (Bégon to Minister, February, 1716, *Correspondance Générale*, XXVI. 90).

Between the year 1711, the year in which the royal edict enjoining on the seigniors to concede *à titre de redevance* was promulgated, and the year 1732, there is no perceptible or material alteration in the rate of *cens et rentes*, even in the concessions made by the proprietors of seigniories granted by the Crown after the passing of the said edict of the 6th July 1711, the rates of *cens et rentes* then general in the colony being in most instances followed.

Nor from 1732 to the year 1759 was the rent materially augmented, except in a few cases; and the rate throughout the District of Montreal may be taken on an average to have been about one penny for every superficial arpent.[1]

It is true that, in many seigniories in the District of Montreal, the rents were rather higher than in the District of Quebec; but the difference was, in fact, not considerable, and may have been agreed to in consideration of the superior quality of the soil and its productions in grain, and may be ascribed partly to the practice of stipulating the payment of the *reditus* in grain, the fluctuating value of which was more lucrative to the seignior than its being rendered in money or capons at a fixed value.

The rent in the District of Montreal was generally one *sol* and one quart of wheat for every superficial arpent, or one half bushel of wheat for every twenty superficial arpents, although in the seigniories belonging to religious bodies capons were generally stipulated instead of the money rent.

The value of such rent may be taken on an average to be about seven shillings and sixpence for every ninety arpents, estimating the wheat in all these cases at one shilling and eightpence per bushel, the value set upon it in early judicial decisions.

The appreciation of wheat, however, underwent a change; for, in July 1742, we find that by a judgment rendered against

[1] The superficial arpent may, as already noted, be reckoned as comprising about five-sixths of an English acre.

the *censitaires* of Argentenay, they were condemned to pay to the miller of that seigniory, for the wheat not ground at the banal mill, at the rate of three *livres*, equal to two shillings and sixpence a bushel.[1]

In some instances, the rent was payable in so many *minots*[2] of wheat for the whole concession, a pint or quart or *pot* for each arpent in front by the depth of the land; while it was often agreed that so much grain should be rendered for every superficial arpent.

Notwithstanding these different modes in which the wheat rent was made payable, it is a remarkable fact that, on a just calculation, the result will be found the same, and the highest rate of concession in the District of Montreal, previous to the conquest, will be found not to exceed one penny for every superficial arpent, valuing the wheat at one shilling and eightpence per bushel.

In corroboration of this opinion we refer to the ordinances of the 8th of May and the 16th of November 1727, the first rendered on the application of the Sieur Lévrard, seignior of Saint Pierre, and the other on the application of the Sieur Rigouville, wherein the usual and accustomed rates of concession in the whole colony are incidentally mentioned.[3]

But whatever inconsiderable diversity may have existed in this particular between the seigniories themselves, for there did exist a trifling variance, yet, with the exception of three or four cases, there was no difference in the rates of concession in any one seigniory.

The terms, as established by the old concession deeds, continued, without any change whatever, to be the guide and rule on all subsequent grants.

[1] This judgment, issued by Hocquart on July 11, 1742, is not printed in *Édits et Ordonnances*. An English translation of it may, however, be found in *Edicts, Ordinances, Declarations, and Decrees relative to the Seigniorial Tenure* (Quebec, 1852), 200–202.

[2] The *minot* was a measure slightly larger than the English bushel.

[3] For these judgments, see *Édits et Ordonnances*, II. 479–483, 486–494.

In those three or four excepted seigniories only does there appear, before the year 1759, any departure from the usual rates of concession, and the absence of this change in all the other seigniories must lead to the conviction that, notwithstanding the trifling difference in the rates of concession throughout the seigniories, a uniform rate, founded on the early concessions, was adhered to in each, and attests the vigilance of that branch of the government to which was confided the execution of the laws, and the accomplishment of the royal intentions regarding the tenures.

The usages in respect of the rates of concession thus determined and established, continued to be the guide in many of the seigniories long after the conquest in 1759.[1]

Soon after the conquest a relaxation of these rules and a disregard of the legal obligations of the seignior, and in some instances of the *censitaire*, is perceptible, which may in some degree be ascribed to the proclamation of the King in 1763, whereby it was declared that, from thenceforward, the laws of England should be the rule of decision with regard to the civil rights of the inhabitants.[2]

Many of the seigniors, believing that the laws, customs, and usages in force in the colony prior to the conquest had been superseded by the English law, considered themselves no longer bound by the old regulations respecting the tenure of their estates, and the granting of the uncleared lands in the seigniories; so that, in many instances, they departed from the established rules and usages, and exacted higher quit-rents, *cens et rentes*, than would have been permitted by the French government before the conquest.

The *censitaires* themselves, equally anxious to elude the

[1] The extent of the divergence from a uniform rate of *cens* is discussed in Lafontaine's *Observations*, 169–269.

[2] October 7, 1763. A copy of the proclamation may be conveniently found in Doutre and Lareau's *Histoire générale du droit canadien*, 330 ff. The question as to whether English law was validly introduced by this proclamation has been much discussed by writers on the legal history of French Canada.

laws binding upon them, and enacted to promote the settlement of the country, forbear to seek grants of wild land from the seigniors, who were disposed to exact more onerous terms than of old; and, in defiance of the law which expressly prohibited the subdivision of farms beyond certain limits and dimensions,[1] parcelled out their possessions into portions of ten, twenty, or thirty arpents, whereby the population, instead of diffusing itself in the extension of the settlements, became crowded within a smaller space, contrary to the wise policy of the ancient government.

These abuses, which under the French government would have been immediately checked by the interposition of the intendant's authority, were, amid the confusion attendant on the establishment of a new order of things, and the changes supposed to have been introduced by the promulgation of a new system of laws, suffered to prevail; and although, by the Act of 1774,[2] their ancient laws, usages, and customs were restored and secured to the inhabitants, becoming thenceforth the settled rules of decision in all civil matters, the wise and beneficent intentions of the old government in respect of the tenure of lands (a point of the greatest importance to the welfare and settlement of a country) were wholly frustrated, and the seigniors for ever afterwards continued at liberty to exact rents and impose conditions at their absolute discretion.

With the limited information we have acquired it would be difficult to point out, with much accuracy, the various epochs at which fresh progress was made in infringement of the laws in this respect.

Having in our possession comparatively few concession deeds, no general and positive rule can be laid down applicable to the whole province; but it is sufficiently manifest,

[1] The reference is probably to the royal edict of April 28, 1745, which forbade the erection of any house or barn upon a farm which did not have a frontage of at least one-and-one-half lineal arpents and a depth of at least thirty arpents. See *Édits et Ordonnances*, I. 583–584; and cf. *Ibid.*, II. 400.

[2] 14 George III. c. 83.

from those deeds which we have had an opportunity of consulting, that a change took place almost immediately after the conquest in some seigniories, and that in others a change occurred about the year 1785, and again in 1800.

From the last-mentioned period down to the present time, the rates of concession have been progressively augmented in many parts until, from about one penny per superficial arpent, which was the original rate, the *cens et rentes* have swollen to threepence, and from that rate to sixpence, and even eightpence per superficial arpent.

So also by means of clauses and stipulations inserted in the deeds of concession, to which nothing parallel can be found before the conquest, the seigniors, since that event, have diminished the value and extent of the rights and estates of the *censitaires* in the lands granted to them, imposing many burthensome conditions, reserving wood and timber for private uses, as well as all mill-sites, not merely for the lawful exercise of the *banalité*, but for the establishment of all kinds of mills and manufactories.

In France, and particularly under the Custom of Paris, the *cens* and other annual rents and dues were regulated by no express law, but there was a usage as to the amount of the *cens* strictly so called; and indeed, from the earliest times, fixedness of the rate of this rent (*fixité*) would appear to have been a ruling principle.

The seignior was at liberty to stipulate such rents and dues on the alienation of his land as he thought proper; but although the stipulated additional rents and dues were not contrary to any law, and were clothed with the same lien or privilege as attached to the *cens*, they were not recognised as being founded upon the common law, nor considered essential to the seigniorial tenure, but were the creatures of positive contract and title.[1]

[1] On this point, see Lafontaine's *Observations*, 166 ff., and the authorities there cited.

Thus, although these charges were generally called seigniorial rights, and as such were secured by the usual privileges in favour of the seignior for their recovery, yet the law established certain important distinctions between them.

These rights were therefore divided by feudists into two classes :—

1st.—The natural or ordinary right, which the particular custom regulated in the absence of express stipulation.

2nd.—Extraordinary rights, foreign to the common law, which were the subject-matter of especial covenant.

In the first category were the *cens*, the essential characteristic mark of the direct seigniory, established by the common law, and which the local custom indicated as the natural charge upon the land ; and the *lods et ventes* or mutation fines, and a certain pecuniary penalty due by the tenant neglecting to exhibit his title of acquisition to the seignior.

The other class consisted of certain burthens and services, such as the *gros cens*, or additional rent, the right of *retractus*, or pre-exemption ; neither emanating from the common law, but purely conventional.

These rights, arising from contract only, became extinguished upon the judicial sale of the land, unless they were preserved by a legal demand on the seignior's part.

They were considered in the light of extraordinary encumbrances upon the land, and, as they were not classed among the charges legally due, a vendor was bound to declare them in order to absolve himself from the obligation of warranty with regard to them, which otherwise he would have incurred.

This was the state of the law under the influence of the Custom of Paris when it came to prevail generally in this colony under the edict of 1663.

To treat properly the subject of the peculiar regulations which exist in this colony with regard to the seigniorial tenure, it is necessary to revert to the earliest settlement of the country by the Company of New France.

By a charter granted to this Company in 1627 by Louis XIII.[1] the most extensive powers for the purpose of effecting a settlement of the country were given, and the Company were authorised to make grants of land to such persons, in such quantities and upon such terms, as they might think proper for attaining that impartial object.

This Company having introduced the tenure which prevailed in Paris, where it was formed, granted lands to be held *en fief et seigneurie*, on terms and conditions calculated to promote settlements.

The grants were made, for the most part, under the Custom of Paris, although some few were made under the Custom of *le Vexin Français*;[2] and after the surrender to the French Crown by the Company of New France in 1663 of all its rights and territories,[3] all grants of land in fief and seigniory were made subject to the provisions of the Custom of Paris.

In 1663 the *Conseil Supérieur* was erected by an edict of the French King,[4] and it was therein declared that the colony of New France should be governed by the law and custom of the Parliament of Paris; and powers were granted to the said *Conseil* to make laws for the good government of the colony.

In looking to the original grant to the Company of New France and the act of cession of its rights to the Crown, it is apparent that the great object of the French government was the settlement of the country.

The Company of New France, with limited means, although possessed of indefinite powers, had made little progress towards that object at the time of the surrender of its rights.

Almost all their grants were merely nominal, no actual settlement having been made.

[1] Printed above, pp. 3–4.
[2] See above, p. 75, note 1.
[3] The act of surrender is printed in *Édits et Ordonnances*, I. 30.
[4] *Ibid.*, 37–39.

The first act of the Crown, on obtaining the cession of the colony was to revoke all grants in that predicament.

The edict promulgated by the King on the 21st of March 1663[1] declared that all grants should be null and void on which no settlement should be made six months after the passing thereof, and granted full power to the governor and intendant of the colony to distribute anew the various seigniories, on condition, however, of actual settlement.

An *arrêt* of the 4th June 1672[2] reduced the concessions already made in the colony to one-half their extent, and the lands were distributed again among such persons as would undertake settlements within the period of four years, and in default thereof the said concessions were to be reunited to the domain, ordering at the same time the intendant Talon to make an exact return to His Majesty of all concessions made in the colony, of their quality and extent, in the number of arpents, or other standard measurement used in the colony, the number of inhabitants, &c., &c.

This *arrêt* was followed by another of similar import dated 4th June 1675;[3] and by the *arrêt* of the 15th April 1676,[4] full power and authority were given to the governor and intendant of the colony to make all concessions, upon the condition, however, of having the said concessions ratified.

To this may be added, on the same subject, the *arrêt* of the 9th of May 1679,[5] again diminishing by one-fourth the extent of the concessions already made upon which no settlement had been made.

These *arrêts* and edicts are cited more for the purpose of showing the intentions of the King in making the various grants and concessions, than as establishing any law on the subject; but they are important in their bearing on the edicts promulgated subsequently to this period by His Most Christian

[1] Printed above, pp. 12–14.
[2] Above, pp. 32–34.
[3] *Édits et Ordonnances*, I. 81–83.
[4] Printed above, pp. 41–42 (the date is May 20, 1676).
[5] Above, pp. 43–45.

Majesty, in relation to the tenure and conditions on which grants of land in seigniories should be made.

Aware of the prevalent belief that there existed an edict fixing the rate of concession generally at a certain specific amount, we conceived it our duty to make strict search among the archives of the province and the records of the provincial tribunals under the French government; and a thorough investigation of the whole matter enables us to state our firm conviction that no royal edict or other legislative measure creating an obligation to concede lands *en roture* throughout the colony at any given rate, either in money, produce, or commodities, was ever issued or enacted.[1]

We have, however, arrived at the conclusion, from consideration of the edicts, declarations, and decisions hereafter referred to, that something nearly equivalent or approaching to such a regulation became established before the conquest.

The before-mentioned edict of the 6th July 1711 [2] is the first legislative Act of the King, made to regulate the concession of lands *en censive*, and to fix the conditions under which it would be imperative on the seignior to concede them.

By this edict it was declared that there were many seigniories in New France in which no settlement had been made, and in which even the original grantees had made no progress towards the cultivation and settlement of the property, and that many seigniors had, under various pretexts, refused to concede lands to persons offering to perform acts of settlement, with the intention of making sales of the said land, at the same time that they imposed on the grantees the same dues (*les mêmes droits de redevance*) as were imposed usually in concessions; which was wholly contrary to the intentions of His Majesty and the very conditions of the original grants to the seigniors themselves, by which they were permitted only to make concessions in consideration of rents (*à titre de rede-*

[1] Compare the conclusion reached in Munro's *Seigniorial System in Canada*, 85–92.

[2] Printed above, pp. 91–94.

vance); and with the view of avoiding such abuses for the future it was ordered that all seigniors, within a year after the promulgation of the said edict, should make settlements and concessions in the said seigniories, in default of which they should be reunited to the domain of the Crown, and that all seigniors, having lands to concede within their seigniories should be bound to concede to all persons demanding concessions *à titre de redevance*, on payment of a rent only and without exacting any money for the same; and that on refusal of the seigniors so to concede, it should be in the power of the intendant, on application for that purpose, to make concessions, on the same conditions as were imposed on the other concessions in the seigniories (*aux mêmes droits imposés sur les autres terres concédées dans les dites seigneuries*), which rights and dues should be paid into the hands of the receiver-general of His Majesty's domain, without its being in the power of the seignior to demand any dues whatever from them.

This edict was followed by another of the same date, declaring all concessions made to *censitaires*, on which no actual settlement had been made, to be null and void, and that, on the certificate of the curate and captain of the *côte*, to that effect, they should be deprived of the concessions.

The intention of His Most Christian Majesty, manifested by the said edict of 6th July, was to compel the grantees of the Crown to concede lands on their seigniories at a mere rent, without exacting any bonus or capital, and that the concessions should be made at the rates already fixed in the seigniories by former concessions.

Upon this point no reasonable doubt can be entertained, as full power was granted to the intendant to make the concessions at the rate already established, in the event of the refusal on the part of the seignior to make them.

This edict would seem to have determined the principle on which concessions should be made, and although no rate is in terms mentioned in it, the previous concessions

made in the seigniory were declared to be the standard for the future.

That the standard was nearly uniform throughout the colony will appear by reference to the concessions made by the seigniors up to the promulgation of the edict, the rate in no instance exceeding two *sols* per superficial arpent, and in a great many being only one *sol.*

In fact, upon the subject of the rate of concession, no difficulty appears to have existed in the colony, as a usual and accustomed rate was by universal consent acknowledged to be settled; but the great grantees of the Crown endeavoured to violate the conditions of those grants, and by exacting sums of money for making a concession to effect sales of their land contrary to the known laws of the tenure and the very conditions of the grants themselves.

This abusive practice of the seigniors was, in truth, the origin of the edict of 1711.

In addition to the evidence to be drawn from the edict, and the very motives of its promulgation, there is ample evidence to be found in the decisions of the intendants, both before and after the passing of the edict, that upon the subject of rates no difference of opinion existed.

The first judgment on record on this subject is a judgment of the intendant, M. Raudot, of the 15th June 1708,[1] by which it was ordered that the seignior of Bécancour should concede certain lands to an inhabitant of the name of Perrault,[2] upon the same clauses and conditions, *aux mêmes clauses et conditions*, as were contained in the deeds of other *censitaires*, and that in default thereof the judgment should be held as his title.

This judgment was followed, after the edict 6th July 1711, by several judgments rendered by the intendant on the same subject, namely, the judgments of the 15th February

[1] *Édits et Ordonnances*, III. 142–143.

[2] In the decree the name of the petitioner is spelled "Perrot."

1716,[1] the 28th June 1721,[2] the 20th September 1721,[3] the 13th October 1721,[4] the 21st February 1731,[5] the 20th July 1733,[6] the 23rd January 1738,[7] and the 23rd February 1748.[8]

To these may be added judgments of the intendant Bégon, of the 11th March 1723,[9] rendered against the seignior of St. Pierre, and an ordinance of the intendant Dupuy, in the case of the same seignior (Lévrard), rendered on the 8th May 1727.[10]

The whole of these judgments were founded on the edicts of the 6th July 1711, and most clearly demonstrated not only that an accustomed rate of concession was established by universal practice in the colony, but that the seigniors were bound to concede at that accustomed rate to all persons soliciting concessions: the power to make these concessions, in the event of refusal on the part of the seignior, being vested in the intendant.

That this authority was acted upon by the intendants is manifest from the *arrêt* of the 29th of May 1713,[11] only two years after the passing of the edict of 1711, by which the seignior Duchesnay was prohibited from making any concessions, in the Bourg du Fargy de Beauport, at a higher rate than that of one *sol* for each arpent, and a capon, to which *redevance* all concessions made by his predecessor at a higher rate in the seigniory were reduced.

This *arrêt* may be adduced as evidence of the operation of the edict of 1711, and of its prohibitory character, with reference to the rates of concession in the seigniories.

In confirmation of this law of 1711, the *arrêt* of the Council of State of the 15th March 1732[12] was passed.

This *arrêt* is important, not only on account of the positive

[1] *Édits et Ordonnances*, II. 448. [2] *Ibid.*, 461. [3] *Ibid.*, 466.
[4] *Ibid.*, III. 184. [5] *Ibid.*, II. 521. [6] *Ibid.*, 531.
[7] *Ibid.*, 545. [8] *Ibid.*, 581. [9] *Ibid.*, 475. [10] *Ibid.*, 478.
[11] This decree does not appear to have been printed.
[12] Printed above, pp. 174–176.

nature of its enactments, but as explaining and confirming the dispositions of the edicts of 1711.

By this *arrêt*, after recital of the edict of 1711, whereby the King had declared that, in some of the seigniories which had been conceded by him, no settlement or habitations had been made, and that if, at the expiration of one year from the date of the promulgation of that edict, they continued in that unsettled state, they should be reunited to the domain of the Crown, and that the said seigniors had been ordered to concede upon a mere rent (*à titre de redevance*) and without demanding any sum of money whatever for the concession, and had granted permission to the inhabitants, in case of refusal on the part of the seignior to concede, to apply to the governor, lieutenant-governor, and intendant, to obtain the said concessions, upon the same terms and conditions (*aux mêmes droits imposés sur les autres terres concédées*), and that the dues accruing therefrom should be paid into the hands of the receiver-general of the King's domain, to the loss of the seignior in that respect.

And the recital of another edict of the same date, whereby the King had declared that the inhabitants, who had obtained concessions, should be held to occupy and inhabit the same (*y tenir feu et lieu*), and in default thereof, that the lands should be reunited to the domain of the seignior upon the judgment of the intendant, His Majesty being informed that notwithstanding these edicts, the seigniors had reserved in their domain large tracts of country which they sold *en bois debout* in lieu of conceding only upon a *reditus* or rent (*à lieu de les concéder simplement à titre de redevance*), and that the inhabitants who had so obtained sales of the wild lands had again sold them to others, thereby making a traffic of the land, contrary to the well-being of the colony, and it being necessary to apply a remedy to abuses so prejudicial in their effect, did order that, within ten years after the publication of that *arrêt*, all proprietors of land held *en seigneurie*, and not yet cleared, should be bound to make settlements and place inhabitants there to

reside, and that, if after the expiration of the said term, such had not been done, that the said lands should be reunited to the domain in virtue of the said *arrêt*, and without any further order. And His Majesty did also most expressly prohibit and forbid any seigniors or other proprietors to sell any wild land whatever (*de ne vendre aucune terre en bois debout*) on pain of nullity of the contract and the restitution of the price thereof, and that the said lands so sold should be reunited to the domain of the Crown; and further ordained expressly that the said two edicts of 1711 should be carried into effect according to their tenor.

This *arrêt*, therefore, is a full confirmation of the edicts of 1711, being even more stringent in its dispositions; and if anything were wanting to ascertain the principle upon which concessions of land *en censive* were required to be made, the deficiencies may be supplied from this source.

So far from the estate of the seignior in the fief granted to him by the Crown being absolute, free, and unconditional, for the sole purpose of his own profit, it may be said that the land was held encumbered with a species of trust, to promote the speedy settlement of the property. He was bound to concede upon a mere *reditus*, or rent, without its being in his power to extend the obligation of the *censitaire* beyond that rent.

In the event of refusal, the power to concede upon the rate imposed in the other concessions was given to the governor, lieutenant-governor, and intendant, and as a penalty for not conceding he forfeited his land to the Crown.

To hold that these were not the true conditions upon which lands *en censive* were required to be made, would be to convert an estate subject to a trust into an absolute freehold; to deny that the seignior was bound to concede at the usual and accustomed rates established in his seigniory by the old concessions prior to 6th July 1711, would be to frustrate the very ends for which the edicts and *arrêts* had been made.

We can recognise no difference between demanding, for the concession, a sum of money in the nature of a price, and the stipulation of that price in the shape of rent chargeable on the land; in truth, they are identical in their results.

In both instances there would be a violation by the seignior of the original conditions of his grant, because it would tend to impose more onerous charges than the law of the tenure allowed.

In looking to the latter part of the edict of 1711 (which may be said to remove all doubts concerning the rate of concession of land in the same seigniories), we find that it enables any inhabitant, upon refusal of a seignior to concede lands, to apply to the intendant, who was specially ordered to make the grant upon the same terms and conditions as were imposed upon the other lands in the same seigniory (*aux mêmes droits imposés sur les autres terres de la seigneurie*), thereby most plainly showing that the rate of concession first established in the seigniory was to be a guide for all future concessions in the same seigniory, from which no seignior could depart without a violation of the law.

It may be contended that the edict applies only to cases wherein the seignior refuses absolutely to concede his lands for an annual rent, whereupon the dues would become payable to the Crown; and that it cannot be extended to the case where the seignior is willing to grant *à titre de redevance*, although at an increased rate.

The answer to this objection, we conceive, is obvious.

The end which the edict had in view, in prohibiting the seignior from selling his wood-lands, and exacting sums of money in the nature of prices of sales, was the rapid settlement of the country, by placing within the reach of every man the means of obtaining land, subject only to a small annual rent; and it may be asked whether a departure by the seignior from the established rule of concession in his seigniory, by which it would be in his power to raise his dues

without limit, would not defeat the object of the legislature; he might, indeed, style his grant a concession *à titre de redevance*, but it would differ from a contract of sale only in name.

It therefore follows, that a willingness on the part of the seignior to concede his lands, but upon terms and conditions more onerous than those already established in his seigniory, would have been considered as an absolute refusal to grant, which would have justified any applicant, under the law of 1711, in demanding from the intendant a concession of land upon payment of the same dues as were imposed on the other lands of the seigniory.

In confirmation of this view of the subject, it may be again stated that, if it were in the power of the seignior to raise his dues, his situation would be better than that of the sovereign, who was bound by the edict to exact no higher dues than those already established in the seigniory, in those cases where the revenues escheated to the Crown on the refusal of the seignior to concede.

In conclusion, it is only necessary to advert to the wording of the edict (*aux mêmes droits imposés sur les autres terres dans les dites seigneuries*) to be convinced that it sufficiently implies an uniform rate of concession in the same seigniory, no difference of rates being mentioned by which the grants made by the intendant for the benefit of the Crown should be distinguished.

If any inhabitant had, at the time this edict was enacted, a right to obtain a grant of land upon the same terms as any *censitaire* within the same seigniory, it is the undoubted privilege of any of the Queen's subjects to obtain the same grant at this day, the edict of 1711 being still the law of the land.

But incontrovertible evidence of the meaning and operation of this edict of 1711, and of the *arrêt* of 1732, and of the intentions of His Most Christian Majesty in promulgating

them, may be gathered from the declaration issued by the King (Louis XV.) on the 17th of July 1743, concerning concessions in the colonies.

This declaration states that authority had been granted to the governors and intendants of the colonies in America to make grants of land, for the purpose of promoting the settlement of the colonies, and to reunite them to the domain of the Crown in default of settlement, and that full judicial power had been given to them, to the exclusion of the ordinary judges of the land, to determine upon all contestations which might arise among grantees and their assigns, as well in relation to the validity and the execution of concessions, as to their position, extent, and limits; but that no certain rules had been established as to the form of proceeding, either with respect to the reuniting to the domain, for want of settlement, or to the course of proceeding on the contestations arising in relation thereto, nor as to the course to be pursued in appeals from the ordinances and judgments of the governors and intendants upon these points, so that different rules and usages obtained in different colonies, and even in the same colony.

That for the purpose of removing all doubts and uncertainty upon subjects so interesting, and to secure the repose and tranquillity of families, he had determined to make certain fixed and invariable rules to guide in all the colonies, as well as to the forms of proceeding to effect a reunion to the domain of concessions when the case might require it, as to all discussions arising thereupon, and the course of bringing appeals from the judgments therein rendered.

In the first article of this declaration it is directed, that the governors, lieutenant-governors, and intendants of the colonies, or the officers representing them in their absence, should continue to make concessions to the inhabitants who might be entitled to obtain them for settlement, and should grant titles to them on the ordinary and accustomed

clauses and conditions (*clauses et conditions ordinaires et accoutumées*).

This article of the declaration is cited as bearing more particularly on the subject of concession, and as showing that an ordinary and accustomed rent was then (1743) recognised and acted upon.

It is true that the whole of the declaration may be viewed more as an *arrêt de règlement* in reference to the course of proceeding before the governors and intendants and in appeals therefrom, than as a declaration in which any legal enactment in respect of the tenure itself is set forth; yet the terms of the first article cited above, and the express authority and order given to the governors and intendants to make concessions upon the accustomed and ordinary rent, in applications made to them founded on a refusal of the seignior to concede, in our humble opinion, remove all doubts on the subject, and characterise the *arrêt* of 1732 as prohibitory in its operations, and fixing unalterably the reciprocal obligations and rights of the seignior and *censitaire*.

We may therefore be permitted to inquire what law it was the intention of the Crown to introduce by the edict of 1663, with reference to the tenure of land (*les lois et ordonnances de notre royaume et y procéder autant qu'il se pourra en la forme et manière qui se pratique dans les ressorts de notre cour du parlement de Paris*); was it the common rule under the Parliament of Paris in relation to the tenure (*en censive*), and the usual and ordinary quit-rents, *cens*, or was it the intention to give unlimited power, and to permit the seignior to impose such charges on the land upon its alienation as he thought proper?

Upon this point, we think that no reasonable doubt can be entertained.

The rule followed by the Crown in its own *censives*, and the rates of concession down to the conquest of this country, afford the most conclusive proof of the intention in this respect; for whatever latitude may have existed, under the

Custom of Paris, in the imposition of seigniorial charges and dues, beyond those incidental to the tenure under the common-law rule, it is clear that under the operation of the edict of 1711, and the *arrêt* of 1732, certain fixed and unalterable rules were established in the colony to regulate the concession of land, from which the seignior could not depart.

The fixedness of the rate of rent, as a ruling principle, is manifested in a striking manner by the remarkable fact, that it required the express authority of the King to enable the seigniors of Montreal to raise the established rent under peculiar circumstances.

These rules were manifestly imposed from the necessity of the case, for if the jurisprudence of the Parliament of Paris in this respect had been allowed to become the law of the colony, the intention of the Crown in the settlement of the country would have been altogether frustrated.

In expressing our opinion on this branch of the subject, which we feel to be one of a delicate nature, and involving interests of great magnitude, we have calmly and dispassionately considered the matter as a purely legal question, irrespectively of cases of individual hardships, or of what may be deemed vested rights founded on long and uninterrupted possession, or the obligation of contracts.

The courts of justice, in later days, swayed, no doubt, by these considerations, have, for the most part, disallowed the principle of a usual and accustomed rate.

By their judgments they have maintained that the seignior had the right of conceding upon such terms and for such rents as he might agree upon with his tenants, and have refused to give relief to the *censitaires* from such conventional burthens.

They have departed not only from the strict letter of the law regulating the tenure under the French government, but from the true spirit and policy of that law, and the conditions of the original grants.

And however unfounded the pretension of the seignior

might have been considered in the court of the intendant, he has in the courts of a later erection invariably been successful in all his contests with his tenants, with the exception of a single instance, which occurred in the court of King's Bench in Montreal in 1828.[1]

Being of opinion that the edict of 1711 is still the law of the land, it remains to be inquired whether there resides in any tribunal the authority competent to enforce it.

By the act of 1774, commonly called the Quebec Act, the inhabitants of this colony were confirmed in all the laws, customs, and usages relative to their civil rights; and it was enacted that in all matters of controversy relative to property and civil rights, resort should be had to the laws of Canada, as a rule, for the decision of the same, and that all causes thereafter instituted in any courts of justice to be appointed within and for the said province by His Majesty, his heirs and successors, should, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they should be varied or altered by any ordinances that should from time to time be passed in the province by the governor, lieutenant-governor, or commander-in-chief for the time being, by and with the advice and consent of the Legislative Council of the same, to be appointed in manner thereinafter mentioned.

This act therefore guaranteed to the Canadians their civil rights, and, of necessity, the tenure and the laws regulating the same were fully and unreservedly maintained.

That such was the intention of His Majesty's government, is apparent on reference to the instructions conveyed to General Carleton, transmitted to him immediately after the passing of the act above quoted.[2]

[1] This was the case of McCallum *vs.* Grey, King's Bench, April 18, 1828 (*Lower Canada Reports*).

[2] These instructions, dated January 3, 1775, are printed in full in *Report on Canadian Archives*, 1904, pp. 229–242.

The article 38th of the instructions is in the following terms: "By our commission to you under our great seal of Great Britain, you are authorised and empowered, with the advice and consent of our Council, to settle and agree with the inhabitants of our said province of Quebec for such lands, tenements, and hereditaments as are now or shall hereafter be in our power to dispose of.

"It is, therefore, our will and pleasure, that all lands which are now or hereafter may be subject to our disposal, be granted in fief or seigniory, in like manner as was practised antecedent to the conquest of the said province, omitting however, in any grant that shall be passed of such lands, the reservation of any judicial powers or privileges whatsoever.

"And it is our further will and pleasure, that all grants in fief or seigniory, to be passed by you as aforesaid, be made subject to our royal ratification or disallowance, and a due registry thereof within a limited time, in like manner as was practised in regard to grants and concessions held in fief and seigniory under the French government."

From these passages it appears unquestionably that the laws in force at the time of the conquest in 1759 were preserved in all their force; and that, in relation to the tenures of land in the province, the law of 1711, and the custom which prevailed in the colony prior to the conquest, respecting grants *en censive*, remained to all intents and purposes the law of the land.

We proceed now to consider whether the judicial authority, which was vested by the King of France in the intendants to enforce the edict of 1711, can be exercised by any tribunal now in existence in this province.

Under the ordinance creating the court of common pleas in this province, passed in the seventeenth year of His Majesty

George the Third,[1] we think the judicial power of the intendant was transferred to that court.

It was the court erected under that act to decide controversies respecting the property and civil rights of the colonists; and, although the legislative powers vested in the intendant could not consistently with the principles of the new government be delegated to that court, yet all the jurisdiction of that officer, exercisable for the protection of the civil rights of the subject, was transferred to the new tribunal; and by the 34th George III., establishing the court of King's Bench in this province, and repealing the 17th George III., the judicial powers of the intendant are expressly given to that court, to be exercised in the most full and ample manner.

Under these circumstances, therefore, we consider that the court of King's Bench now established has full power and authority to enforce the edicts of 1711, with the *arrêt* of 1732, and to carry out the jurisprudence established before the conquest.[2]

Having reviewed the laws of the seigniorial tenure as they existed under the French government, and as they continue to exist in the province of Lower Canada after the conquest, it becomes our duty to advert to the alterations which these laws have undergone by legislative enactments.

The first provision affecting the law of tenures in this province is to be found in the imperial statute of 3rd George IV., chapter 119, intituled, "An Act to regulate the Trade of the Provinces of Lower and Upper Canada, and for other purposes relating to the said Provinces."[3]

[1] 17 George III. c. 1. The ordinance, dated February 25, 1777, may be found in full in *Ordinances made and passed by the Governor and Legislative Council of the Province of Quebec* (1772), 2.

[2] The conclusion reached on this point by the commissioners is open to question; at any rate, it is certain that the court of King's Bench never assumed the old administrative jurisdiction of the executive authorities conferred by the arrêts mentioned.

[3] Printed above, pp. 290–292.

The chief part of this law concerns the revenue, but the thirty-first and thirty-second sections affect the seigniorial tenure of land.

The defects of this Act were, however, soon perceived, for, as it was limited in its provisions to commutations between the Crown and the seignior, or between the Crown and its grantees *en roture*, the *censitaires* in many of the seigniories were left wholly unprotected, and were doomed to live under a tenure which they might consider of a most burthensome and odious character, while the Act gave to the seigniors an absolute and unconditional property in the ungranted portions of their fiefs, in direct violation of the wise and beneficent intentions of the edict of 1711, and the *arrêt* of 1732, and the declaration of 1743, by which, as we have already shown, the seigniors are bound to grant lands to such persons as apply for them, subject only to the accustomed rents and dues.

To remedy the defects of this Act, and to provide for a commutation between the seignior and *censitaire*, another Act was passed by the Imperial Parliament in the sixth year of His late Majesty George the Fourth, intituled, "An Act to provide for the Extinction of Feudal and Seigniorial Rights and Burthens on Land held *à titre de fief et à titre de cens*, in the Province of Lower Canada, and for the gradual Conversion of those tenures into the tenure of Free and Common Soccage, and for other purposes relating to the said Province."[1]

Under this Act, the most objectionable part of the Act 3rd George IV., whereby the seignior is clothed with an absolute and uncontrolled property in the wild lands of his seigniory, not only stands unrepealed, but is confirmed.

On the legitimacy of these enactments, it is not our province to comment; but we are gratified to find the views we entertain, regarding the vesting in the seigniors of an absolute freehold estate in those unconceded lands, are supported by the

[1] Above, pp. 292–299.

authority of an address of the honourable House of Assembly of Lower Canada to His Excellency the governor-in-chief, presented in the session of 1824.[1]

The concluding part of that address is in the following terms: "That the unconceded lands held by the seigniors *en fief* in this province are held by them subject to be re-granted to any applicant engaging to settle thereon, subject only to the accustomed dues and conditions, and that it is on grants of those lands that the cultivators of the soil in this province depend for the settlement of their children, the said cultivators and their children having a legal right to obtain such grants.

"That any arrangement made under the said Act, 3rd George IV., between His Majesty and the holders of such waste lands in fief and seigniory, would be to deprive a third party of an equal right which is beneficial to the individual, advantageous to the community, and guaranteed by the capitulation of the colony, and by the Act of the fourteenth year of the reign of His late Majesty.

"That this House conceiving that it is a duty incumbent on it, in so far as may depend upon this House, to protect every right of its constituents, humbly represent the matter to Your Excellency, and pray that, in any conditions which may be imposed on any seignior surrendering lands under the said Act, to obtain a grant thereof in free and common soccage, such conditions may be imposed on such seignior, in conformity to the said Act, as may preserve entire the right of the subject to a grant of the said waste lands, at the usual *redevances* or dues and conditions."

We now come to the second branch of the subject of our investigation, namely, as to the present working of the feudal and seigniorial tenure in this province.

[1] This address may be found in the *Journals of the House of Assembly of Lower Canada*, February 28, 1824.

In stating our views on this branch of the inquiry, we must necessarily proceed on the assumption that the exorbitant pretensions of the seigniors, at the present day, are just and founded in law as now administered.

Taking this for granted, it cannot be denied that this system of tenure is in many respects vicious and is productive of extreme injury.

The dues and services exacted, without considering the more common abuses, are oppressive to the land-owner, not only from their variety, but from their nature.

The pecuniary dues of the *censitaire* are, in many instances, more than he can liquidate; while the reservations to which he was forced to submit by his lord deprive him of the free use of his land as proprietor. He is, in many instances, subjected to fines for neglect of certain services, in some cases of mere form, by which his condition is fettered.

Instead of being able to add to his resources by developing such advantages as his soil or its natural position may present in the free exercise of mechanical skill, he is bound to the land for the mere purpose of cultivation, and is dependent on its return for a precarious subsistence.

Thus, if he be possessed of a mill-site, or a spot of land favourable to the construction and operation of machinery, he is prohibited from using it. The reservations contained in his deed of concession deprive him of the advantage of it, except at a heavy cost. If his crop fail him, he may be kept in a state of indigence, although able and willing to better his condition by mechanical pursuits. He is thus kept in a perpetual state of feebleness and dependence. He can never escape from the tie that binds him and his progeny for ever to the soil—as a cultivator he is born, as a mere cultivator he is doomed to live and die.

By these means, all progressive improvement in the country is checked; its resources for advancement in the arts of civilised life are in the hands of the seigniors, and they

may alone reap the advantage. But even in the limited sphere of action allowed to the *censitaire* under this tenure he is controlled.

The odious claim of *lods et ventes*, or the mutation fine of one-twelfth, eight and one-quarter per cent on the price of his farm, which he is bound to pay on every mutation of property by sale, or act equivalent to sale, not only diminishes the value of his property, but checks the spirit of enterprise.

This fine is levied on his improvements, thereby taxing his industry to an unlimited extent. The right to *lods et ventes* is unquestionably legal; but its injurious operation is not the less felt.

Although principally oppressive in towns and villages, it paralyses the whole country by its influence, for, by affecting property in the towns and populous villages, the seats of wealth and intelligence, its baneful operation is extended in every direction.

The demoralising effect of this right is unquestionable; because, to avoid its payment, the *censitaires* frequently resort to fraud, often involving in their consequences the crime of perjury. This is an event, at any rate in the District of Montreal, of no infrequent occurrence, and as the value of property becomes augmented, too likely to be continued.

In addition to these, are the rights of pre-emption, *retrait* and *corvée*, or day labour, impeding in some degree the improvement of the country; the *retrait*, when misapplied, preventing the free conveyance or transfer of property, and the *corvée* being odious and humiliating to the man.

The right of pre-emption may be rendered most oppressive. It not only gives rise to great abuses in respect of the tenant, by frustrating and interfering with his most cherished plans of amelioration, but it opens the door to exactions on the part of the seignior, against which it is wholly out of the power of the tenant to protect himself, by enabling the

seignior to demand any sum he pleases for relinquishment of his right under the name of a mutation fine.

This is no unfounded charge, for there exists evidence of such abuse in some cases.

The right of *corvée* is hateful in the eyes of *censitaires*, and it is a badge of servitude.

In many instances these *corvées*, at the execution of *titres-nouvels*, have been illegally superadded to the contents of the original deeds of concession.

We cannot overlook a stratagem of which some seigniors, as we are informed, have availed themselves to elude the law prohibiting the sale, by the seignior, of uncleared lands on their concession for rent and an additional bonus.

The mode of proceeding to attain this object is by making a fictitious concession to an agent or friend, who forthwith sells the land and pays the price to the seignior.

Besides the burthens above mentioned, there are in many seigniories the prohibition to build mills, the right of appropriating six arpents for the erection of any mill by the seignior, and this without indemnity for the land, but paying for improvements only should there be any; the right of taking all timber, such as pine, oak, and saw logs, all stone, sand, and materials necessary for building, and this without indemnity; the right of changing the course of all streams or rivers for manufacturing purposes, the right of ferry over rivers. It is even made the subject of covenant in some early concessions, that the tenant shall have the privilege of using any wood on his land which he may require for his own use.

These reservations are past comment; no system can be devised better calculated to keep a man in perpetual subjection. Under it all the generous emotions of his nature are stifled. Thus he gradually becomes impoverished; he toils through existence without the hope of relief, and transmits to his posterity a worthless inheritance. Under the operation of such a tenure, his right of property may become

a mere delusion; as a moral being he is degraded, and his position is one of perpetual dependence.[1]

Let us now consider the means which the laws afford to the seignior for the recovery of his rights, and the practical consequences of the exercise of such legal remedies.

To secure these rights, the law awards to the seignior an especial privilege: he is entitled to claim on the estate of his vassal a preference over all persons. He can recover arrears of *cens et rentes* for twenty-nine years. These arrears are not only secured by a privileged lien on the land on which they accrued, in preference to all other persons even to the vendor of the soil, but operate as an incumbrance on all the other possessions of the grantee from the date of his concession deed. For the recovery of his *lods et ventes* he is equally preferred, and it frequently happens that for arrears of that right, he sweeps away the whole of the money arising from the sale of the farm. The tenant is also subject to an action at law for each of the rights and services due under his concession. Although the amount of such dues in money may be trifling, they have hitherto been deemed recoverable in the highest courts of the province.

As the dues are charged upon the land itself, a judgment must be there obtained to enable the seignior to bring it to sale, and obtain payment. Thus the tenant is liable to heavy costs for the recovery of a sum which, but for the nature of the debt, would have been the subject-matter of a suit in a court of inferior jurisdiction.

An instance of this mischievous tendency of the law in reference to the compulsory observance of seigniorial service, may be found in the case of the *censitaire* of the seigniory of Beauharnois.

The proprietor of the seigniory obtained letters patent for the foundation of a land-roll (*lettres de terrier*), that is, the

[1] Attention may be directed to this paragraph as evidencing the strong bias with which the report was prepared.

right of compelling the *censitaires* to take new titles, which consist of an acknowledgment and reiteration of the terms and conditions of the original grants.

Those *censitaires* who neglected to take such titles, for which also they were bound to pay a fee to the notary, were prosecuted, and judgments were rendered against them, condemning them to accept new titles, and to pay five pounds damages and costs for having neglected to conform to the requirements of the law. The costs on an average amounted to about ten pounds, thereby entailing an expense which, in some instances, would lead to the sale of the tenant's property.

The files of the court of King's Bench for the District of Montreal fearfully illustrate the practical working of the system; for it will there be found that, out of the whole number of actions brought in that court during the last three years, about one-fifth part were instituted by seigniors for the recovery of rights and services due under the tenure.[1]

The result appearing from official returns and information is that, during the same period, somewhat more than one-fifth of the judicial sales were made at the instance of seigniors to enforce their judgments.

Such is the operation of a tenure declared by its apologists to be of surpassing excellence, and suitable to the wants and conditions of the inhabitants of this province: but this is not the view entertained by the inhabitants themselves, who are desirous of a change, although they differ in opinion respecting the nature of such change. They declare that their burthens are intolerable, and that unless the legislature comes to their relief, inevitable ruin awaits them.

Profoundly impressed with the importance of this subject, and its ultimate effect on the prosperity of this province and the welfare of its inhabitants, we feel that the time has arrived

[1] The decisions in several of these cases are printed in *Titles and Documents relating to the Seigniorial Tenure* (Quebec, 1852), I., Appendix.

when a change or modification of the law in respect of the tenure of land can no longer with safety be withheld. It has even been asserted, by persons from various sections of the District of Montreal, that the feudal exactions, and the neglect of the government to enforce the ancient laws of the province in relation to the tenure, conduced in no small degree to the outbreaks in 1837 and 1838.

The principal argument used by the advocates of the feudal tenure is that, if the feudal property were converted into free tenure, facilities would be afforded to land speculators to become proprietors of large tracts of land in the seigniories, to the great inconvenience and, in some cases, to the ruin of its inhabitants.

This argument is not only ill-founded, but wholly inapplicable, for, under the present system, in some seigniories, the real land speculators are the seigniors themselves.

The lands are brought to sale for payment of the high rents, and the seignior, free from all competition, buys the finest farms for sums scarcely adequate to the payment of the arrears, and makes a traffic of the land by selling again for large sums, or by conceding on conditions infinitely more onerous, thereby securing to himself a monopoly ultimately ruinous to his *censitaires*.

The operation of the tenure in this respect is an abuse and a departure from its true spirit, and one likely to be continued from the very nature of the burthens imposed on the tenants.

In submitting our views upon a scheme of commutation, we feel compelled to declare that we do so with great hesitation and diffidence.

A subject of such vast importance to the welfare of the community ought not to be lightly treated, nor should any scheme be proposed without possessing all that statistical information relative to the seigniories without which its justice and feasibility cannot be tested, and without a full knowledge

of the views and opinions of those most interested in so great a change.

The conversion of a tenure ought not to be recommended without the most unquestionable necessity, nor should the change be determined upon except upon due consideration of the necessary consequences to the rights and privileges of those destined to be affected by it.

Viewing a conversion of tenure in the abstract, or as a mere measure of public utility, called for by the advancement of a country in intelligence and civilisation, it would be less difficult to give the general outlines of a plan calculated to effect it; but regarding the tenure as one under which the inhabitants of this country have lived since its first settlement, as one intimately blended with their laws and customs, the subject becomes intricate and demands the maturest examination.

It cannot be denied that sound policy, for the ultimate well-being of the inhabitants of this community, requires that the feudal tenure should be abolished.

It is no longer suited to the spirit of the age nor the actual wants of the population; it is the relic of a barbarous age, and, in its practical operations, antagonist to the growth and permanency of free institutions.

However advantageous it might have been in the infancy of the colony, and favourable under wholesome restrictions to the rapid settlement of the wilderness, its necessity is no longer felt; and in a more advanced community, it operates as a bar to the general improvement and the prosperity of the people.

Situated as is this country with a belt of land on either bank of the river Saint Lawrence, and along its tributary streams, held under the seigniorial tenure, but surrounded on all sides by a population wholly opposed to it, and holding their lands under rules of an adverse character, calculated to create and to cherish opinions in unison with a higher state of civilisation, it is manifest that the force of circumstances

and the general advancement of the country must sooner or later lead to this change.

In the one case, we should see a population rapidly advancing to a high state of prosperity in agriculture and mechanical pursuits, holding their lands under a tenure eminently adapted to foster the principles of freedom and develop the energies of the man ; in the other case, a population struggling under the artificial and antiquated system of a bygone age, with no ultimate hope of relief, and rendered discontented by a comparison with their more fortunate neighbours.

A result so certain to arrive, it should be the wise policy of a government to prevent. Under such circumstances, the conversion of a tenure is no longer a matter of expediency, it is one of necessity, and is the only measure by which one portion of the population can be rescued from certain degradation. Were the tenure free, they would feel that they are no longer bound to the soil, they would experience the promptings of a generous emulation, and the necessary result would be the emancipation of a people, and their advancement in all the arts of civilised life.

Assuming, therefore, that the conversion of the tenure would be expedient, it may be inquired whether such a change is wished for by the entire population of the province. Upon the very limited information possessed by us, we cannot found a general opinion as to that point.

The subject, although of the greatest importance to the whole community, has not, throughout the country, received that degree of attention which it merits. We are possessed of scattered opinions from various sections of the province, but it would be improper to take these few communications as the general sense of the whole population.

We think that the inhabitants of French origin have no great wish to change the tenure of their lands, if it were to be attended by the introduction of any alteration of the laws affecting their rights, although extremely desirous to be re-

lieved from their seigniorial burthens. They are anxious to be exonerated from the burthens pressing most heavily on them, but in few instances do they express a willingness to pay any equivalent.

The great majority of the English population are in favour of a commutation, and, in some instances, seem disposed to give a fair indemnity to the seignior.

Modifications of the seigniorial tenure requisite to meet the views of the majority of the French-Canadian population we think impracticable, without a great stretch of power.

The seignior must receive a compensation for his rights, and this compensation can only be given by means of a commutation.

If the *lods et ventes*, *banalité*, and excessive rents be taken away without indemnity, it would be a measure fraught with manifest injustice; for these rights, to a certain extent, are incidental to the very tenure, and in that degree are guaranteed by law. If the tenure be allowed to continue, these rights must also subsist as an essential part of it, and the evils arising from it, the removal of which is so loudly called for, must also remain unabated.

A commutation, therefore, is the only resource left, and this commutation should be based on strictly just principles.

Before proceeding to discuss the various plans submitted to us in the course of our inquiry, it is proper to determine the exact position of the seignior towards his *censitaire*, and the nature of his claims, and to distinguish those rights for which he is entitled to an indemnity, from those which are in their nature honorary or conventional, and which ought to be, without any hesitation, utterly abolished.

The claims for whose surrender the seignior is entitled to an indemnity are, first, the rent or *cens et rentes*, comprising the *corvées* when stipulated; secondly, the *lods et ventes*. These two rights are those upon which the principle of commutation will chiefly turn.

Reserving the right of *banalité* for future discussion, we have to observe, that for all the other rights and claims of the seignior, such as the *retrait* and reservations of every description, except such as are made in the interests of the Crown, the seignior is not, in our estimation, entitled to any pecuniary indemnity, and they ought to be for ever abolished; because the right of *retrait* is only admitted as the means of obviating frauds on the seignior, and not as a profitable right, and the reservations for the most part are unauthorised by law and repugnant to the principles of the tenure as introduced into this province.

On the subject of the rate of *cens et rentes*, we have already expressed our opinion, and it will rest with the legislature itself to determine that question, as it may affect the *quantum* of indemnity. . . .[1]

All of which is humbly submitted by Your Excellency's most obedient servants,

A. Buchanan.
J. A. Taschereau.
James Smith.

Montreal, *March* 29, 1843.

No. 85. Memorandum of Peter Burnet, Esquire, protesting against the proposed Method of Commuting the Seigniorial Tenure, April, 1852.

Correspondence relative to the Seigniorial Tenure, 51–56.

The undersigned having resided for many years in Canada acquired a large extent of property in that colony.

One part of this property, as appears by titles registered

[1] The remaining pages of the report deal at length with the various schemes of commutation which had been submitted to the commissioners. Though of some interest, this part of the report is scarcely of sufficient importance to warrant its publication in full.

in the *Registre d'Intendance* at Quebec, in the year 1723, is a seigniory granted by the King of France, with the rights of *haute*, *moyenne* and *basse justice*, *pêche* and *chasse*, and liable to *foi* and *hommage* to the Crown.

Another part of his property, as appears by titles enregistered at Quebec in the year 1637, is a free gift and grant, liable to no such conditions, and this grant is not *à titre de fief et seigneurie*, but by the law and custom of the country such grants of land, whether made before or since the conquest, have been treated as liable to the seigniorial tenure, under the maxim of French law, *nulle terre sans seigneur*.

It has been the custom of Lower Canada to concede to *censitaires* or tenants in perpetuity the lands in the seigniories liable to very low rents, and to *lods et ventes*, or a fine of one-twelfth of the value on each mutation of sale, and by an *arrêt* of the King of France of 1711, it was rendered compulsatory in the seigniors to concede their lands without requiring any sum of money by reason of the said concession, but by another *arrêt* of the King of France of the same year and date, 1711, such concessions and grants are to be made only for actual settlement and improvement; if the *censitaire* or tenant did not reside on and improve the lands so conceded within a year and a day, the farm or grant became reunited to the domain of the seignior.

The undersigned, and the seigniors generally, have not exacted any sum of money by reason of the concession of their lands, but complaints have been made that there are cases where seigniors have attempted to do so, and although such cases were sought for over the whole space of time since the conquest, and found to have been extremely rare and to have been corrected under the law and custom of the country, a kind of excuse has been given, and as many of the *censitaires* or tenants have become wealthy in consequence of the very low annual rents they have been subject to, they are now desirous of no longer being held liable to pay to the seignior

lods et ventes, or a fine on mutation by sale, and under these circumstances two bills were introduced during the last session of the House of Assembly, the one to define certain rights of seigniors and *censitaires* in Lower Canada, and the other to facilitate the redemption of seigniorial rights, and to convert the tenure of the lands into that of *franc* [*aleu*] *roturier*, and fixes the indemnity to be given to the seignior as compensation for rents, *lods* and *ventes*, and other rights and privileges he is required to surrender and give up. The undersigned, from some experience, and having been a member of the House of Assembly for the city of Quebec, is strongly of opinion that the seigniorial tenure is far the most advantageous for the settlement of a new country, and more especially where the inhabitants are habituated thereto; but if a change of tenure be supposed by the legislature to be for the public good, he and many of the seigniors do not complain or remonstrate; all they ask or desire is an equitable, fair, and just compensation for that of which they are to be deprived and are required to surrender and give up, and the object of the present is to show clearly and beyond all manner of doubt, that many of the provisions of these bills are harsh and unjust towards the seignior, a violation of the rights of property by arbitrary legislation in favour of one class only, and contrary to the welfare of the colony, by throwing the whole of the unconceded lands into the hands of land jobbers and speculators unconditionally. One *arrêt* of the King of France of the year 1711, for the protection of the *censitaires* or tenants, is held to be in force; while another *arrêt* of the King of France of the same date, for the protection of the seigniors, is abrogated or rendered unavailable, and the seigniors are by express legislation to be compelled to grant their unconceded lands to all persons who may demand of them, and without any condition or obligation whatsoever, as to residence on, or the improvement of the lands, unless such conditions are contained in the original titles of the seignior, and even in that case the parties

who have enforced the concession to them of such lands are to be considered as residing thereon, if they occupy any other land, lot, or emplacement, within a distance of ten leagues from the lands so conceded. It was stated in the House of Assembly by the present attorney-general that the seigniors who held seigniories *à titre de haute justice* probably enjoyed certain rights and privileges in their quality as high justiciars and not as seigniors, and that their rights ceased to exist after the conquest, when justice became vested in the Crown. This assertion was, however, avowedly a mere speculative opinion, and as many of the grants of land in Lower Canada are not *à titre de fief et seigneurie* by the original titles, consequently those grants, if seigniories at all, can only be held liable to the seigniorial tenure under the maxim of French law, *nulle terre sans seigneur*, the proprietor of the lands so held is justly and equitably entitled to the rights, privileges, and property, as conferred by the tenure to which it is held to be liable, and not being a high justice, could not by possibility have lost the rights consequent on that title. By the preamble of the bill to define the rights of seigniors and *censitaires*, it is assumed that certain acts have been done in violation of the conditions under which the original grants of the seigniories were made, the *arrêt* of the King of France of 1711, in relation to lands in Canada granted as seigniories; and the same powers are to be conferred on the superior court of Lower Canada, as the powers heretofore exercised by the governor and the intendant. But several enactments of this bill go far beyond the declaration in the preamble, and in direct terms confiscate the property on the unnavigable rivers, and the timber on the lands; both of which rights and property, incontestably and beyond all manner of doubt, appear to have formed part of the property of the owners of land in France, not granted as seigniories, but held liable to the seigniorial tenure, under the maxim of French law, *nulle terre sans seigneur*, in the same manner as similar grants of land in Lower Canada have been

held liable to the same tenure under sanction of the law and custom of the country.

The effect to result from this legislation palpably is, that practically the proprietors of extensive properties in Lower Canada are held to be liable to the conditions of a certain tenure, but are arbitrarily to be deprived of the rights of property such as were hitherto at all times freely exercised under sanction of the law and custom of the country, as consequent on the same tenure, and are not to be compensated for that of which they are so deprived.

That part of the property admitted by these bills to remain vested in the seignior, or persons holding lands under the seigniorial tenure, is to be estimated, valued, and paid for on a change of tenure in a manner utterly contrary to equity and justice, and in favour of one class only.

The compensation thus to be awarded to the seignior on a change of tenure is not only rendered very precarious and uncertain, but has no direct relation to the actual and real value of the property, is infinitely less than what was recommended as a just and fair arrangement by the Canada commissioners in their general report in 1836, and is founded on principles entirely contrary to the evidence of the attorney-general Ogden and solicitor-general O'Sullivan, as annexed thereto, and to the more equitable manner of which the real value of such seigniorial property was established in France, when the *régime féodal* was done away with at the commencement of the Revolution in 1789–90. By the enactments of the bills as now proposed in Canada:—

1st.—The annual rents are to be estimated by the present rental, which is taken to represent the interest of capital at 6 per cent, and thus an annual and increasing rent of £12 is taken to represent £200, which is redeemable at the option of the tenant, but not of the seignior.

In France, although the *régime féodal* was abolished in revolutionary times, the rents were valued at twenty and

twenty-five years' purchase, and thus a rent of £12 per annum would represent £300 capital payable to the seignior, a much more equitable arrangement than that proposed at the present moment in Canada.

2nd.—The *lods* and *ventes*, or fine of one-twelfth of the real value, payable to the seignior on each mutation by sale, is to be estimated by taking the receipts of fourteen years, and after deducting the receipts of the two highest and two lowest years, then assuming the average of the remaining ten years as the value of the income of the seignior, and to represent the interest of capital at 6 per cent, redeemable at the option of the *censitaire* or tenant, but not of the seignior, and distributed in proportion to the lands of the whole seigniory. This tortuous and confused mode of estimating and valuing a revenue derived from so extremely fluctuating and increasing a source as a fine on each mutation by sale, is palpably unjust and a mere lottery, depending entirely on the accidental circumstance of whether large sums have been paid in two, or the same amount has been paid in three or more years, and a seignior having a seigniory or seigniorial lands of ten times the value, and having actually received ten times the amount of income for fourteen years, may nevertheless actually receive less compensation under these bills than a seignior having a seigniory of only one-tenth of the value, but where the payments of *lods et ventes* have happened to be made differently.

The rents of lands are excessively low, and a great source of seigniorial revenue is the *lods et ventes*, or fine due to the seignior when property is sold, and thus from its nature the receipts from *lods et ventes* are liable to very great fluctuation, but of vastly increasing value, and the estimation and valuation to take place under the enactments of these bills has in fact no relation to the actual and real value of the seignior's property, and the amount so estimated and again revalued, by being converted into capital at 6 per cent interest, is not only quite inadequate, but is arbitrary and unjust, as not

being founded on the real and actual value of the rights and property the seignior is required to surrender and give up for the public good, and is in direct contradiction to the opinions of the attorney-general Ogden and the solicitor-general O'Sullivan, as given in their evidence to the Canada commissioners of 1836.

A seignior, who for the last fourteen years has received of *lods et ventes*, or fines on sales within his seigniory, an amount of £1600 in four payments, would have an average annual income of about £115 per annum, which by this arbitrary and oppressive plan of estimation and valuation would be reduced to about £80 per annum, by deducting the two highest years, and which sum of £80 per annum being taken as representing the interest of capital at 6 per cent, would amount to about £1333, while the average income actually received by the seignior of £115, from a source of vastly increasing value, taken at something more near to its actual value and real value and as representing the interest of capital at 4 per cent, would amount to about £2875, considerably more than double the compensation as proposed to be awarded to the seignior.

In a note attached to the general report of the Canada commissioners of 1836, it is suggested that, on a change of tenure where voluntary on the part of the *censitaire*, in no case ought the commutation fine to be less than one ordinary fine or *lods et ventes;* on the contrary, it ought to exceed the amount of such fine by the present value of all the reversionary fines to which, if the tenure remained unaltered, the land will be subject, and that taking in consideration all the circumstances, it perhaps may be found that in voluntary commutations of one-tenth of the actual value of the property will be sufficient compensation to the seignior for the rights which he surrenders; but that in this allowance no estimation is made for rents or any other feudal burthens beyond *lods et ventes*, and that the rents may be easily calculated and redeemed at

so many years' purchase, or they might be left as a charge on the property. By this calculation, however, the amount to be paid to the seignior is avowedly decreased under the supposition that, as lands granted as seigniories with the rights of *haute justice*, &c., &c., are liable to [the quint] or a fine to the Crown on mutation by sale, this claim would be given up by the Crown, and the benefit to arise from the remission by the Crown would thus be divided between the *censitaire* and the seignior; it is therefore quite evident and clear that, where lands are held under the maxim of law, *nulle terre sans seigneur*, and consequently are not liable to any fine to the Crown on mutation by sale, the seignior, on a change of tenure by the *censitaire*, is equitably entitled to a proportionate increase of compensation for the difference in the value of that which he is required to surrender and give up.

In the evidence of the attorney-general and of the solicitor-general it is recommended as equitable and just that the actual value of the property liable to *lods et ventes* be ascertained by *experts* or arbitrators. In France, when the *régime féodal* was done away with, the valuation of the seignior's property subject to *lods et ventes* on a change of tenure was taken as that of the last sale if within ten years, and if no sale had taken place within that term, and that the seignior and his tenant had not come to an agreement, then the actual value was ascertained by *experts* or arbitrators.

3rd.—The seigniors in Lower Canada who hold their seigniories of the Crown, and also the proprietors of large grants of land not granted *à titre de fief seigneur*, but held to be liable to the seigniorial tenure under the maxim *nulle terre sans seigneur*, have hitherto held and exercised the right of property in the timber on the lands and control thereover, as completely and entirely as in and over any other property or real estate whatsoever; this property is nevertheless to be confiscated to the seignior or the proprietor. The timber on the unconceded lands of the seigniories in France appears

not only to have been considered of a domanial nature, but held under *Les ordonnances des eaux et forêts* of 1669, which continued in force till 1792. Timber was taken for the royal navy, the seigniors were paid the value of the timber so taken, and it seems quite incontestable and beyond all manner of doubt that, where property was held to be seigniorial under the maxim *nulle terre sans seigneur*, the right of property in the timber on the lands was just as entirely and completely vested in the proprietor of the lands as the right of property in any other immovable or real estate whatsoever.

4th.—By these bills the seigniors in Canada are deprived of the control over unnavigable rivers within their seigniories, and of the property in the beds of such rivers, thus summarily and arbitrarily interfering with the rights of property, and assuming as a fact and legislating on that which is not only very doubtful, but has created so much difficulty as not to be settled in France up to the present time; and while this enactment is to take place in Canada, from the avowed reason that possibly those seigniors who were high justices in Canada held some of their rights and privileges as high justices and not as seigniors, yet the same enactments are rendered applicable to lands and rivers held under the maxim of law, *nulle terre sans seigneur*, where the seigniors or proprietors were not high justiciars, and under which tenure, in France, all such property appears beyond all manner of doubt to have been held as fully and entirely as any other property or immovable whatsoever.

5th.—The undersigned and his predecessors have erected extensive and valuable saw-mills, and under sanction of the law and custom of the country have at all times freely exercised the right of property in the timber on his seigniory and lands, but by the enactments of these bills the seignior or proprietor is deprived of the right of property in the timber on his seigniory and lands, and consequently those extensive and valuable saw-mills will in fact virtually be confiscated.

The *arrêt* of the King of France of 1711, for the protection of the seignior, and to enforce the actual settlement and improvement of the country, being abrogated, or set aside by those bills, and the granting unconditionally of the unconceded lands to all who may demand of them rendered obligatory on the seignior, it inevitably follows that land jobbers and speculators are to be empowered to demand the concession to them of the whole of the lands on which there is timber, and without any intention of the improvement or settlement of those lands, but for the express purpose of cutting and selling the timber, leaving the lands denuded and waste, and thus deteriorated, no longer in a fit state to be conceded for actual settlement and improvement, and the seignior without any recourse whatsoever, unless that of resuming the lands after the whole of the timber has been cut and carried off.

PETER BURNET.

NICE, ITALY, *April* 1852.

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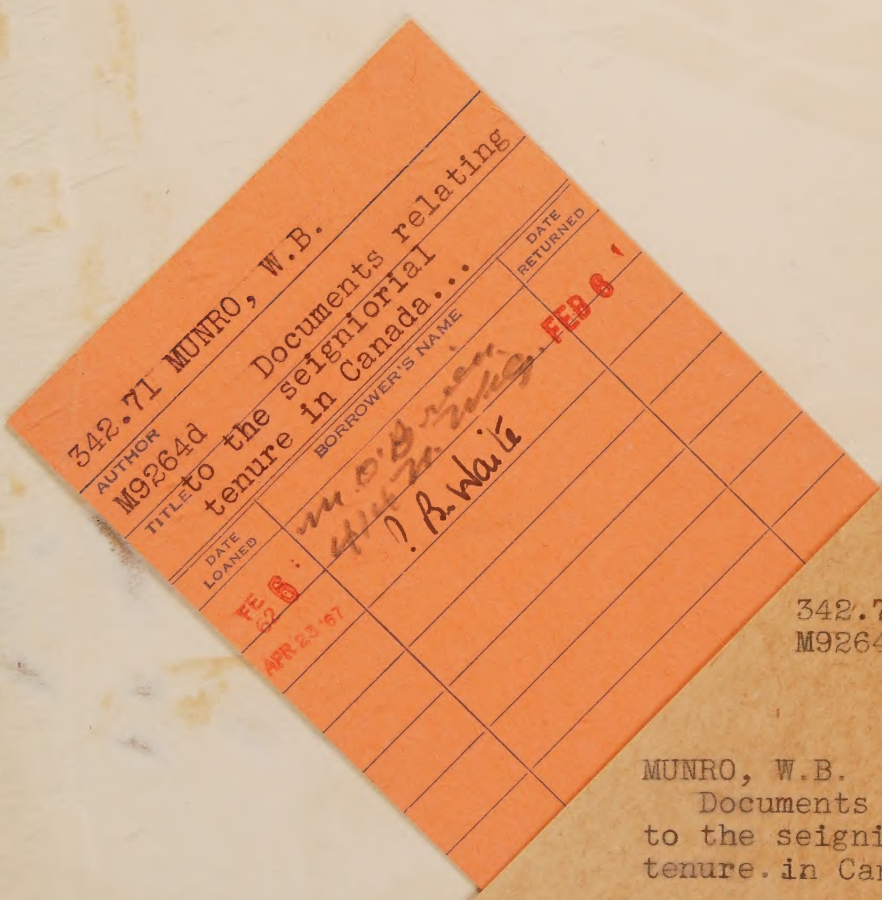

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